

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

PEGGY J HENDRICKS
Claimant

APPEAL NO. 14A-UI-06877-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OELWEIN COMMUNITY SCHOOL DISTRICT
Employer

OC: 05/11/14
Claimant: Appellant (4)

Iowa Code Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

STATEMENT OF THE CASE:

Peggy Hendricks filed a timely appeal from the June 24, 2014, reference 01, decision that disqualified her for benefits, based on an Agency conclusion that Ms. Hendricks had voluntarily quit her employment with the Oelwein Community School District without good cause attributable to that employer. After due notice was issued, a hearing was held on July 28, 2014. Ms. Hendricks participated and presented additional testimony through Dean Hendricks. Joan Loew, Business Manager and School Board Secretary, represented the employer. The hearing in this matter was consolidated with the hearing in Appeal No. 14A-UI-06878-JTT. The administrative law judge took official notice of the Agency's administrative record of wages reported by or for the claimant and of benefits disbursed to the claimant (DBRO and WAGE-A).

ISSUE:

Whether Ms. Hendricks separated from the employment for a reason that disqualifies her for unemployment insurance benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Peggy Hendricks was employed by the Oelwein Community School District as the part-time, seasonal bowling coach. Ms. Hendricks first performed work for the district in November 2012 and last performed work for the district in March 2014. The regular bowling season runs from November to March 2014. At the time Ms. Hendricks was employed by the District, she also was employed by Viper Lanes, L.L.C. Viper Lanes is owned and operated by Ms. Hendricks' husband, Dean Hendricks. After the end of the 2013/2014 bowling season, Ms. Hendricks submitted a written resignation to the Oelwein Community School District. Ms. Hendricks and her husband had concluded that Ms. Hendricks' coaching duties conflicted with her duties at the bar and grill Viper Lanes had recently established. The Oelwein School Board accepted Ms. Hendricks' resignation at its May 19, 2014 board meeting.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

Iowa Code section 96.5(1)(a) provides as follows:

Causes for disqualification.

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

- a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

In this instance, Ms. Hendricks voluntarily quit the part-time employment with the District to focus on her new duties at the primary employment at Viper Lanes. The quit was without good cause attributable to the District and the District will not be charged for benefits. The quit to focus on increased duties in the other employment did not disqualify Ms. Hendricks for benefits. Ms. Hendricks is eligible for benefits provided she meets all other eligibility requirements.

DECISION:

The Claims Deputy's June 24, 2014, reference 01, decision is modified as follows. The claimant voluntarily quit the employment without good cause attributable to the employer to focus on increased duties associated with other employment. The District's account will not be charged for benefits. The quit to focus on increased duties in the other employment did not disqualify the claimant for benefits. The claimant is eligible for benefits, provided she meets all other eligibility requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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