

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA A GRAHAM
Claimant

APPEAL NO: 13A-UI-02736-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCSOIFER'S INC
Employer

**OC: 01/13/13
Claimant: Respondent (4)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(27) – Part-time Employment

STATEMENT OF THE CASE:

The employer appealed a department decision dated March 6, 2013, reference 02, that held the claimant voluntarily quit employment with good cause attributable to the employer on January 10, 2013, and benefits are allowed. A telephone hearing was held on April 3, 2013. The claimant did not participate. Becky Willson, Area Supervisor, and Kathy Morrow, General Manager, participated for the employer.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant began work for the employer on December 1, 2012 and last worked as a cook on January 10, 2013. She worked about 35 hours a week. She walked-off the job on her last day because she did not want to follow the employer food chart procedure. The employer had an issue with claimant cooking too much food that led to waste. It had talked with claimant about this issue.

The Department record shows claimant worked for FREYCO (ER#327777) until she was laid off on or about December 31, 2012. The Department issued a February 13, 2013 decision confirming the layoff and allowing claimant benefits.

Claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The administrative law judge concludes that the claimant voluntarily quit without good cause attributable to the employer her part-time non-base period employment on January 10, 2013 when she walked-off the job. Since claimant was working at FREYCO at about the time of her employment with the employer and it confirms she worked "about 35 weekly hours" it is reasonable to believe this is more part-time than full-time employment.

The claimant is eligible for benefits based on her layoff from her base period employer FREYCO. The employer in this matter is not liable and benefit charges will not be assessed subject to re-qualification.

DECISION:

The department decision dated March 6, 2013, reference 02, is modified in favor of the employer. The claimant voluntarily quit without good cause her part-time non-base period employment on January 10, 2013. Benefits are allowed, provided the claimant is otherwise eligible. Benefit charges are not assessed against the employer's tax account.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css