

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROXIE E PETERSON
Claimant

APPEAL NO. 07A-UI-00219-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEPARTMENT OF NATURAL RESOURCES
Employer

OC: 11/12/06 R: 04
Claimant: Respondent (4-R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated December 26, 2006, reference 02, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on January 24, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Craig Cree participated in the hearing on behalf of the employer with a witness, Pat Schmitz. This separation from employment is the same as that in 07A-UI-00218-SWT. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show this employer began reporting wages for the claimant starting in the third quarter of 2006 under account number 069210 instead of 049515. The employer (account number 069210), therefore, is not currently a base period employer on the claim but is considered the claimant's most recent employer. No one involved in the hearing could provide a definite answer for the change in how the claimant's wages were reported. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked 32 to 40 hours per week on a seasonal basis from March 27, 2006, to November 1, 2006. She worked as a natural resource aide at the Walter Residence and Visitor's Center, which is open to the public from May 1 to October 31, 2006.

The natural resource aides start working at the end of March preparing the Center. They are offered an opportunity to work an additional week to 10 days after the Center closes doing postseason cleanup and other closing activities.

At the end of the season in 2006, the claimant agreed to work after the Center closed and could have worked part time through November 24, 2006. During the week of November 6 through 8, the claimant was offered a short-term job with a friend. She took that job instead of working at the Center. On November 7, the claimant notified her supervisor by email that she would not be

back for the remainder of the season, but would return to work in the spring if the employer wanted her to return.

The claimant filed a new claim for unemployment insurance benefits with an effective date of November 12, 2006. She filed weekly claims for benefits for the weeks ending November 18 and 25 but did not report any earnings during those weeks. She was paid \$360.00 for those two weeks.

This employer began reporting wages for the claimant starting in the third quarter of 2006 under account number 069210 instead of 049515. The employer (account number 069210), therefore, is not currently a base period employer on the claim but is considered the claimant's most recent employer.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code section 96.5-1 and 96.5-2-a.

The unemployment insurance rules provide that a claimant who leaves employment before a layoff date shall be deemed to be not available for work until the layoff date, but after the layoff date, the separation shall be considered a layoff. 871 IAC 24.26(13).

Finally, the unemployment insurance law provides that a claimant shall not be disqualified for leaving employment to accept other employment provided that the claimant performs services in the new employment. The law further provides the employer that the claimant has left to accept other employment shall not be charged for benefits paid to the claimant. Iowa Code section 96.5-1-a.

In coordinating these statutes and rules, the following outcome is required. The claimant would ordinarily be disqualified for the time period through the end of the season that she could have worked, but in this case, the claimant is eligible for benefits since she left work to take other employment. The separation, however, would be considered a layoff effective the week of November 26.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

Finally, the claimant was uncertain for how long that she worked for her friend. If the claimant worked after she applied for unemployment insurance benefits, she failed to properly report her work and earnings. The issue of whether the claimant failed to report work and earnings for any weeks after November 12, 2006, is remanded to the Agency to investigate and make a determination.

DECISION:

The unemployment insurance decision dated December 26, 2006, reference 02, is modified in favor of the employer. The claimant is qualified to receive unemployment insurance benefits, provided she is otherwise eligible. The issue of whether the claimant failed to report work and earnings for any weeks after November 12, 2006, is remanded to the Agency to investigate and make a determination.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs