

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARY L SWAN**  
Claimant

**APPEAL NO. 09A-UI-05142-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LEVY, JAMES F GEN PTNR ET AL**  
**3801 GRAND ASSOCIATES LP**  
Employer

**OC: 02/15/09**  
**Claimant: Appellant (4-R)**

Iowa Code Section 96.5(1) – Voluntary Quit  
871 IAC 24.27 – Voluntary Quit of Part-time Employment

**STATEMENT OF THE CASE:**

Mary Swan filed a timely appeal from the March 24, 2009, reference 04, decision that denied benefits. After due notice was issued, a hearing was held on April 29, 2009. Ms. Swan participated. Melissa Sherod, Administrator, represented the employer and presented additional testimony through Jodi Parsons, Nursing Manager. Exhibits A, B, One, Two, and Three were received into evidence.

**ISSUE:**

Whether Ms. Swan's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mary Swan was employed by the 3801 Grand Associates as a part-time Tenant Aide from November 4, 2008 until February 15, 2009, when she voluntarily quit in response to a reprimand for attendance. On February 5, the employer issued a reprimand to Ms. Swan for failing to notify her immediate supervisor of her need to be absent on February 4, 2009. Ms. Swan believed she had taken appropriate steps to contact the employer and did not think the written reprimand was fair. In immediate response to the written reprimand, Ms. Swan told the employer she was quitting effective February 20, 2009. In addition, Ms. Swan wrote on the written reprimand that she would be done on February 20, 2009. Ms. Swan worked until February 15, but did not return after that. Ms. Swan was absent the final few days of the employment due to illness. The employer continued to have work available for Ms. Swan.

## 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.

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.

When a person voluntarily quits employment in response to a reprimand, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(28).

The evidence in the record indicates that Ms. Swan quit in response to a reprimand. The voluntary quit was without good cause attributable to the employer. The employer will not be charged for benefits paid to Ms. Swan. Ms. Swan would not be eligible for benefits based on wage credits she earned through this employment until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount, provided she is then otherwise eligible. However, Ms. Swan is eligible for unemployment insurance benefits, provided she meets all other eligibility requirements.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

This employer was not a base period employer for purposes of the claim Ms. Swan established on February 15, 2009. Accordingly, Ms. Swan's quit from the part-time employment should have no impact on her eligibility for benefits during the benefit year that began February 15, 2009. This matter will be remanded to the Claims Division of Workforce Development for redetermination of Ms. Swan's eligibility for benefits based on based period wage credits from other employers.

## DECISION:

The Agency representative's March 24, 2009, reference 04, decision is modified as follows. The claimant voluntarily quit the part-time employment without good cause attributable to the employer. The employer's account shall not be charged for benefits paid to the claimant. The claimant would not be eligible for benefits based on wage credits she earned through this

employment until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount, provided she is then otherwise eligible. This employer is not a base period employer for purposes of the claim established on February 15, 2009. The claimant would remain eligible for benefits, provided she is otherwise eligible. This matter is remanded to the Claims Division of Workforce Development for redetermination of the claimant's eligibility for benefits based on based period wage credits from other employers.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs