

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TINA M MELDREM

Claimant

APPEAL NO. 16A-UI-08576-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 07/10/16

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:

Tina Meldrem filed a timely appeal from the July 28, 2016, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on an agency conclusion that Ms. Meldrem had voluntarily quit on May 27, 2016 without good cause attributable to the employer. After due notice was issued, a hearing was held on August 24, 2016. Ms. Meldrem participated. Linda Hannusch represented the employer. Exhibits One through Four were received into evidence at the time of the hearing. Exhibit A was received into evidence on the afternoon of August 24, 2016.

ISSUE:

Whether Ms. Meldrem separated from the employment for a reason that disqualifies her for unemployment insurance benefits or that relieves Casey's of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Tina Meldrem was employed by Casey's Marketing Company as a part-time Second Assistant Manager during two distinct periods. The first employment ended on February 27, 2015. The most recent period of employment began on March 16, 2015 and ended on May 27, 2016, when Ms. Meldrem voluntarily quit to accept other employment. At the time Ms. Meldrem voluntarily separated from the employment, the employer continued to have work available for her. Ms. Meldrem's work hours at Casey's were Wednesday, Thursday, Friday from midnight to 7:00 or 8:00 a.m. Every other week, Ms. Meldrem would work Saturdays and Sundays, Midnight to 10:00 a.m. On or about May 15, 2016, Ms. Meldrem notified her immediate supervisor, Linda Hannusch, Store Manager, that she had accepted a job that provided day hours and was giving her two-week notice. Ms. Meldrem told Ms. Hannusch that her last day in the Casey's employment would be May 25, 2016. Ms. Meldrem worked through her notice period and then separated from the Casey's employment. Ms. Meldrem commenced her new employment the following week. The new employment was with C & R Mercantile, where Ms. Meldrem was to work as a bookkeeper.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1-a 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. 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.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

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.

The evidence in the record indicates that Ms. Meldrem voluntarily quit the Casey's employment for the sole purpose of accepting other employment that offered better work hours. Ms. Meldrem's voluntary quit from Casey's was without good cause attributable to Casey's. Casey's account shall not be charged for benefits. Because the quit was to accept other employment, the quit does not disqualify Ms. Meldrem from benefits. Ms. Meldrem is eligible for benefits, provided she is otherwise eligible.

DECISION:

The July 28, 2016, reference 01, decision is modified as follows. The claimant voluntarily quit the Casey's employment for the sole purpose of accepting other employment that offered better work hours. The claimant's voluntary quit from Casey's was without good cause attributable to Casey's. Casey's account shall not be charged for benefits. Because the quit was to accept other employment, the quit does not disqualify the claimant for benefits. The claimant is eligible for benefits, provided she is otherwise eligible.

This matter is remanded to the Benefits Bureau to adjudication of the separation from the new employer, C & R Mercantile, and for determination of whether the claimant has met the availability requirement since she established her claim for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs