

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STACY M BECK
Claimant

APPEAL NO. 10A-UI-03198-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

G M R I INC
Employer

OC: 01/24/10
Claimant: Respondent (4-R)

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 19, 2010, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on April 13, 2010. Claimant Stacy Beck participated. Julia Morgan, Sales Manager, represented the employer.

ISSUE:

Whether Ms. Beck separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer operates an Olive Garden restaurant in Cedar Rapids. Stacy Beck was employed by the Olive Garden restaurant as a part-time server from October 2007 until February 22, 2010, when she voluntarily quit to focus on school and for other personal reasons. Ms. Beck did not notify the employer of her intention to quit, but instead just ceased showing up.

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 to attend school, the quit is without good cause attributable to the employer. See 871 IAC 24.25(26).

Because Ms. Beck voluntarily quit the part-time employment to focus on school and for other personal reasons, Ms. Beck's voluntarily quit was without good cause attributable to the employer. The employer's account shall not be charged for benefits paid to Ms. Beck. Ms. Beck is disqualified for benefits based on wage credits she earned through the employment at Olive Garden until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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 matter will be remanded to the Claims Division for redetermination of Ms. Beck's eligibility for reduced benefits based on base period employment other than GMRI, Inc./Olive Garden. The redetermination will likely result in a decision that Ms. Beck has been overpaid benefits. The Claims Division should also look at the issue of whether Ms. Beck has been available for work since she established her claim for benefits.

DECISION:

The Agency representative's February 19, 2010, reference 01, 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 is disqualified for benefits based on wage credits she earned through the employment at GMRI, Inc./Olive Garden until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant would remain eligible for reduced benefits based on other base period employment, provided she meets all other eligibility requirements.

This matter is remanded to the Claims Division for redetermination of the claimant's eligibility for reduced benefits based on base period employment other than GMRI, Inc./Olive Garden. The redetermination will likely result in a decision that the claimant has been overpaid benefits. The Claims Division should also look at the issue of whether the claimant has been available for work since she established her claim for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs