

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**KATHRYN L ROUSSELOW**  
Claimant

**FISCHELS HOLDINGS LLC**  
Named Employer in Interest

**SULENTIC & FISCHELS REALTORS INC**  
Actual Employer in Interest

**APPEAL NO. 20A-UI-02537-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/01/20**  
**Claimant: Respondent (4)**

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Iowa Code Section 96.5(1) – Voluntary Quit  
Iowa Code Section 96.6 – Wrong Employer Named

**STATEMENT OF THE CASE:**

Sulentic & Fischels Realtors, Inc. (employer account number 361463), the employer in interest, filed a timely appeal from the March 18, 2020 (reference 01) decision. The reference 01 decision allowed benefits to claimant Kathryn Rousselow, provided she met all other eligibility requirements, but removed wages from part-time employment with Fischels Holdings, L.L.C. (employer account number 575514) until Ms. Rousselow earned 10 times her weekly benefit amount. The decision also relieved the employer account of Fischels Holdings of liability for benefits paid to Ms. Rousselow. The reference 01 decision was based on the deputy's conclusion that Ms. Rousselow had voluntarily quit part-time employment with Fischels Holdings on February 28, 2020 without good cause attributable to the employer, but that she had sufficient base period wage credits to be eligible for unemployment insurance benefits. After due notice was issued, a hearing was held on April 16, 2020. Claimant Kathryn Rousselow participated. Mellissa Youngblut represented Sulentic & Fischels Realtors, Inc. (employer account number 361463) and waived formal notice of the appeal hearing. Fischels Holdings, L.L.C. (employer account number 575514) did not comply with the hearing notice instructions to register a telephone number for the hearing and did not participate. The administrative law judge took official notice of the following Agency administrative records: DBRO and WAGE-A.

**ISSUES:**

Whether Ms. Rousselow voluntary quit the part-time employment for good cause attributable to the employer.

Whether the employer account of Sulentic & Fischels Realtors, Inc. (employer account number 361463) may be charged for benefits.

Whether the employer account of Fischels Holdings, L.L.C. (employer account number 575514) may be charged for benefits.

## **FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Kathryn Rousselow was employed by Sulentic & Fischels Realtors, Inc. (employer account number 361463) as a part-time, temporary administrative assistant from January 10, 2020 until February 28, 2020, when she voluntarily quit the employment. At the start of the employment, the parties had a mutual understanding that the temporary employment would end on April 1, 2020. On February 14, 2020, Ms. Rousselow gave notice to the employer that she would be leaving the employment effective February 28, 2020. Ms. Rousselow told the employer that she was looking for a longer-term position and would be accepting a position at an insurance company. At the time Ms. Rousselow separated from the employment, she had not been offered other employment and had not accepted other employment. At the time Ms. Rousselow separated from the employment, the employer continued to have work for her through April 1, 2020.

Ms. Rousselow has never been employed by Fischels Holdings, L.L.C. (employer account number 575514). The March 18, 2020 (reference 01) decision and the Notice of Fact-finding Interview that preceded it each erroneously referenced Fischels Holdings, L.L.C. as the employer in interest. Fischels Holdings, L.L.C. and Sulentic & Fischels Realtors, Inc. (employer account number 361463) have different ownership, but share an accountant. The accountant alerted Melissa Youngblut, Office Manager for Sulentic & Fischels Realtors, Inc., to the erroneous substitution of Fischels Holdings, L.L.C. as Ms. Rousselow's employer.

Ms. Rousselow established an original claim for benefits that was effective March 1, 2020. Ms. Rousselow's base period consists of the fourth quarter of 2018 and the first, second and third quarters of 2019. Ms. Rousselow's sole base period employer was Harbaugh, Winninger Realty, Inc. (employer account number 188661). Ms. Rousselow had sufficient base period wages and wage credits, based on the Harbaugh, Winninger Realty employment, to be monetarily eligible for unemployment insurance benefits. Neither Fischels Holdings, L.L.C. nor Sulentic & Fischels Realtors, Inc. is a base period employer for purposes of the original claim that was effective March 1, 2020. Accordingly, neither Fischels Holdings, L.L.C. nor Sulentic & Fischels Realtors, Inc. has been charged for benefits paid to Ms. Rousselow in connection with the claim.

Since Ms. Rousselow separated from the employment with Sulentic & Fischels Realtors, Inc., she has had no additional employment and has not earned 10 times her \$413.00 weekly benefit amount from new employment.

## **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Administrative Code rule 871-24.27 provides as follows:

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 Form 65-5323, 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 evidence in the record establishes that Ms. Rousselow voluntarily quit the part-time employment with Sulentic & Fischels on February 28, 2020 without good cause attributable to that employer. Ms. Rousselow had not accepted other, better employment. There was nothing about the Sulentic & Fischels Realtors, Inc. working conditions that would make the quit for good cause attributable to the employer. Accordingly, the employer account of Sulentic & Fischels Realtors, Inc. shall not be charged for benefits. Ms. Rousselow remains eligible for benefits, based on her base period wages and wage credits, provided she meets all other eligibility requirements. The wages and wage credits from the Sulentic & Fischels Realtors, Inc. shall be excluded from Ms. Rousselow's claim until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by Sulentic & Fischels Realtors, Inc. shall be transferred to the balancing account.

Iowa Code Section 96.6 requires that the Iowa Workforce Development provide the appropriate employer in interest with notice of the claim for benefits, notice of the fact-finding interview, notice of the decision entered by the deputy, and notice of the appeal hearing. From the time Ms. Rousselow established her claim for benefits until the appeal hearing, Iowa Workforce Development erroneously named Fischels Holdings, L.L.C. (employer account number 575514) as the employer in interest and erroneously omitted Sulentic & Fischels Realtors, Inc. (employer account number 361463) as the employer interests. This decision recognizes that erroneous substitution and acknowledges Sulentic & Fischels Realtors, Inc. (employer account number 361463) as the correct employer in interest. The employer account of Fischels Holdings, L.L.C. (employer account number 575514) shall be held harmless.

**DECISION:**

The March 18, 2020 (reference 01) decision is modified in favor of both referenced employers as follows. The claimant is eligible for benefits, provided she meets all other eligibility requirements. The wages and wage credits from the Sulentic & Fischels Realtors, Inc. shall be excluded from the claim until the claimant has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by Sulentic & Fischels Realtors,

Inc. shall be transferred to the balancing account. The employer account of Sulentic & Fischels Realtors, Inc. (employer account number 361463) shall not be charged. The employer account of Fischels Holdings, L.L.C. (employer account number 575514) shall not be charged. The Benefits Bureau shall make appropriate changes to the Agency's administrative records to ensure the correct employer in interest is referenced in Agency records.

A rectangular box containing a handwritten signature in cursive script that reads "James E. Timberland".

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James E. Timberland  
Administrative Law Judge

April 17, 2020  
Decision Dated and Mailed

jet/scn