

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

TABBY R DAVIS
Claimant

APPEAL NO: 18A-UI-11702-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

W&H COOPERATIVE OIL COMPANY
Employer

OC: 02/25/18
Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.27 – Voluntary Quitting – Part-time Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 26, 2018, (reference 15) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 18, 2018. The claimant participated. The employer participated through Bill Bunker.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did claimant voluntarily quit the part-time employment with good cause attributable to employer?

Has the claimant requalified or is she otherwise monetarily eligible for benefits?

Is the employer liable for benefit charges?

FINDINGS OF FACT:

The claimant worked for this employer, on a part-time basis, from September 18, 2018 through October 29, 2018 as kitchen help. The claimant also had full-time employment through Fort Dodge School District. The claimant quit her employment to move to Louisiana to help care for her mother. Continuing work was available.

The administrative record shows that the claimant has not requalified for benefits since this separation but reflects she appears to be otherwise monetarily eligible for benefits after this part-time employer's wages are excluded from the base period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer, and has not requalified but appears to be otherwise monetarily eligible.

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.

Iowa Admin. Code r. 871-24.25(2) and Iowa Admin. Code r. 871-24.25(23) provide:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

Iowa Admin. Code r. 871-24.27 provides:

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 655323, 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.

This rule is intended to implement Iowa Code section 96.5(1)g.

See also, *McCarthy v. Iowa Emp't Sec. Comm'n*, 76 N.W.2d. 201 (Iowa 1956) wherein the court held that persons who become unemployed by a layoff from their full-time employer cannot be disqualified for a previous voluntary quit from a part-time employer.

Inasmuch as the claimant voluntarily quit to move to care for her mother, the separation is disqualifying. However, the claimant has not requalified for benefits since the separation but appears to be otherwise monetarily eligible according to base period wages. Benefits are allowed, provided she is otherwise eligible.

DECISION:

The November 26, 2018, (reference 15), unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but appears to be otherwise monetarily eligible. Benefits are allowed, provided she is otherwise eligible. The account of this employer shall not be charged.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn