

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA S WILLERS
Claimant

APPEAL NO. 11A-UI-09987-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MICHAELS STORES INC
Employer

**OC: 06/12/11
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:

Melissa Willers filed a timely appeal from the July 20, 2011, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on August 22, 2011. Ms. Willers provided a telephone number for the hearing but was not available at that number at the time set for the hearing. The administrative law judge twice contacted the number the claimant had provided for the hearing. On both attempts, the administrative law judge encountered a message that the subscriber was not receiving calls at that time. Rochelle Lillian, Assistant Store Manager, represented the employer.

ISSUE:

Whether Ms. Willers' 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: Melissa Willers was employed by Michaels Store, Inc., in Davenport as a part-time cashier from October 2010 until April 23, 2011, when she voluntarily quit. On April 23, Ms. Willers contacted Assistant Manager Rochelle Lillian and asserted that she was quitting because she had to leave town to care for an ailing aunt. Ms. Willers provided no further information to employer and made no further contact with the employer.

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.

The evidence in the record indicates that Ms. Willers voluntarily quit the part-time employment for personal reasons and not for good cause attributable to the employer. There is insufficient evidence in the record to establish that the quit was premised on the actual need to relocate or to care for an ailing aunt. Regardless, a quit for such reasons would be without good cause attributable to the employer. See 871 IAC 24.25(2) and (23). Ms. Willers is disqualified for benefits *based on base period wage credits from the Michaels Stores employment* 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 employer's account shall not be charged for benefits paid to Ms. Willers.

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.

Ms. Willers remains eligible for *reduced* benefits based on base period wage credits from employers other than Michaels Stores, provided she meets all other eligibility requirements. This matter will be remanded to the Claims Division to redetermine Ms. Willers' eligibility for reduced benefits.

The remand should also address whether Ms. Willers has been able to work and available for work since she established her claim for benefits.

DECISION:

The Agency representatives July 20, 2011, reference 03, decision is modified as follows. The claimant voluntarily quit the part-time employment without good cause attributable to the employer. The claimant is disqualified for benefits *based on base period wage credits from the Michaels Stores employment* 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 employer's account shall not be charged. The claimant remains eligible for *reduced* benefits based on base period wage credits from employers other than Michaels Stores, provided she meets all other eligibility requirements.

This matter is remanded to the Claims Division to redetermine the claimant's eligibility for *reduced* benefits. The remand should also address whether the claimant has been able to work and available for work since she established her claim for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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