

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIE MELBY
Claimant

APPEAL NO: 12A-UI-08194-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RM ENTERPRISES INC
Employer

OC: 12/04/11
Claimant: Appellant (1/R)

Iowa Code § 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-Time Employment

STATEMENT OF THE CASE:

Jennie Melby (claimant) appealed an unemployment insurance decision dated June 29, 2012, reference 06, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with RM Enterprises, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 31, 2012. The claimant participated in the hearing. The employer participated through Kristi McGrane, human resources. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from her part-time employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The employer is a temporary employment agency that provides temporary clerical and manufacturing jobs. The claimant was hired on February 22, 2012 for part-time work at Crescent Park, which is a distributor facility for Kraft Foods. She walked out during lunch on May 11, 2012 because her Crescent Park supervisor was making fun of her because she is gay.

Rhonda, the owner of Personnel Enterprises, and Human Resources Kristi McGrane were present in the Crescent Park lunch room handing out paychecks. They asked the claimant whether she was returning and the claimant started crying and left. She was so upset, she did not contact the employer until May 18, 2012 to pick up her last paycheck. The employer was unaware of what happened with the claimant's supervisor until that date but has subsequently addressed it.

The employer has continuing work available at Crescent Park and the claimant is eligible for re-hire but has to first take a pre-employment drug screen. She does not want to return to Crescent Park.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit her employment on May 11, 2012 when she walked out during lunch because her supervisor was making fun of her. No employee has to endure cruel treatment and the claimant's reasons for leaving the work site that day are certainly reasonable. However, her failure to contact the employer until one week later is not. The employer cannot be held responsible for a problem without knowledge of that problem. Once it learned of the problem with the Crescent Park employee, it took action.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden.

However, an individual who quits part-time employment without good cause, yet is otherwise monetarily eligible based on wages paid by other base-period employers, shall not be disqualified for voluntarily quitting the part-time employment. Benefit payments shall not be based on wages paid by the part-time employer and charges shall not be assessed against the part-time employer's account. Once the individual has met the requalification requirements, the wages paid from the part-time employment can be used for benefit payment purposes. 871 IAC 24.27.

Based on this regulation, this matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive unemployment insurance benefits when the wage credits the claimant earned while working for the employer are not used in determining the claimant's monetary eligibility or her maximum weekly benefit amount.

DECISION:

The unemployment insurance decision dated June 29, 2012, reference 06, is affirmed. The claimant voluntarily quit her part-time employment for disqualifying reasons. Therefore, the employer's account will not be charged. This matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive unemployment insurance benefits and to determine what her maximum weekly benefit amount is when the wage credits the claimant earned from the employer are not taken into consideration to determine these two issues.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw