

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LORA R BURT**  
Claimant

**APPEAL NO. 07A-UI-09631-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARSON PIRIE SCOTT INC**  
Employer

**OC: 09/02/07 R: 03**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Lora Burt filed a timely appeal from the October 11, 2007, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on October 30, 2007. Ms. Burt participated. Barb Gustafson, Assistant Store Manager/Human Resources Manager, represented the employer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and history of base period wage credits.

**ISSUE:**

Whether the claimant's voluntary quit of the part-time employment 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: Lora Burt was employed by Carson Pirie Scott, doing business as Younker's, as a part-time sales associate from August 8, 2006 until November 16, 2006, when she voluntarily quit to pursue self-employment as a cosmetologist in Nebraska. One and a half to two months prior to the quit, Ms. Burt advised the employer that she was no longer available to work weekends. Ms. Burt had received her cosmetology license and wished to use her weekends to pursue that self-employment venture in Nebraska. Because Ms. Burt's availability diminished, Ms. Burt's part-time work hours decreased accordingly. Ms. Burt continued in the employment another month and a half after the change in her hours. During the third week of October 2006, Ms. Burt got into an argument with a coworker. Ms. Burt's immediate supervisor brought the matter to the attention of the Assistant Store Manager, Barb Gustafson. The next day, the coworker quit the employment. Ms. Gustafson continued in the employment after the incident.

On November 15, Ms. Burt notified Ms. Gustafson that she would be quitting the employment the next day to pursue self-employment as a cosmetologist. Ms. Burt did not reference the previous reduction in work hours or the previous conflict with the former coworker at the time she notified the employer of the quit.

This employer was Ms. Burt's sole base period 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.

871 IAC 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See Wiese v. Iowa Dept. of Job Service, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. Id. An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa Ct. App. 1990).

A claimant is presumed to have voluntarily quit without good cause attributable to the employer if the claimant quit to move to a different locality or quit to enter self-employment. See 871 IAC 24.25(2) and (19).

The greater weight of the evidence in the record indicates that Ms. Burt's voluntary quit was not prompted by a change or reduction in work hours. The evidence indicates that Ms. Burt prompted the reduction in hours by eliminating her weekend availability. The evidence indicates that Ms. Burt continued in the employment for another six to eight weeks after the reduction in hours. Nor does the evidence indicate that Ms. Burt's quit was prompted by the interpersonal disagreement with the coworker in October. That issue was resolved three weeks prior to Ms. Burt's quit, when the other employee quit. Even if the employer had been responsible for a

significant change in the conditions of the employment, the evidence indicates that Ms. Burt acquiesced in the change by continuing her employment for another six to eight weeks.

The greater weight of the evidence indicates that Ms. Burt voluntarily quit the employer to pursue self-employment as a cosmetologist and to return to her state of licensure, Nebraska, to pursue that self-employment. The evidence establishes that Ms. Burt's voluntary quit was without good cause attributable to the employer. Ms. Burt is disqualified for benefits based on wage credits earned from the employment with Younker's until she has worked and been paid wages for insured work equal to ten times her weekly benefit amount. The employer's account will not be charged.

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. Because Younker's was Ms. Burt's only base period employer, Ms. Burt is not eligible for reduced benefits.

**DECISION:**

The Agency representatives October 11, 2007, reference 02, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in a 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.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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