

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARAH A BEHM
Claimant

APPEAL NO. 12A-UI-01405-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MASON CITY FORD LINCOLN MERCURY
Employer

OC: 12/25/11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Sarah A. Behm filed a timely appeal from an unemployment insurance decision dated February 3, 2012, reference 02, that disqualified her for benefits. After due notice was issued, a telephone hearing was held March 20, 2012 with Ms. Behm participating and being represented by Virginia Merritt, Attorney at Law. Exhibit A was admitted into evidence on her behalf. Richard Piscopo, Attorney at Law, appeared on behalf of the employer, Mason City Ford Lincoln Mercury. Jim Skarlis and Tami Saidat testified. Exhibit D-1, the documents and notes from the fact-finding interview were admitted into evidence.

ISSUES:

Was the separation a quit or a discharge?
Was the separation a disqualifying event?

FINDINGS OF FACT:

Sarah A. Behm was a part-time employee of Mason City Ford Lincoln Mercury from February 2011 until approximately December 22, 2011. On December 22, 2011, Ms. Behm's father, grandfather, two uncles and a sister were discharged. Several family members are now facing criminal felony charges. Ms. Behm's father reported these events to her. Ms. Behm did not return to the employer thereafter. She filed a claim for unemployment insurance benefits during the week of December 25, 2011.

On or about December 23, 2011, Regional Vice President Jim Skarlis told Don O'Connor, Ms. Behm's boyfriend, that he wished that she would call him so that they could discuss the situation. Ms. Behm assumed that she had been discharged and did not contact the employer. The employer had not made any determination as to the status of Ms. Behm's continued employment on December 22, 2011.

REASONING AND CONCLUSIONS OF LAW:

Ms. Behm testified that her father told her that she had been discharged. Her father was not called to testify. The claimant acknowledged that she did not contact the employer concerning the status of her employment. The employer has testified that it had not made any decision on the claimant's continued employment. Separation under these circumstances is better characterized as a quit.

Iowa Code § 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.

The claimant has the burden of proof. See Iowa Code § 96.6-2. It is understandable that the claimant would feel awkward maintaining employment with a business that had just discharged several members of her family. Her resignation was certainly for good personal cause. Absent evidence that the employer was wrongfully holding her personally responsible for the alleged misdeeds of her family, the evidence does not establish good cause attributable to the employer for the resignation. Benefits are withheld.

DECISION:

The unemployment insurance decision dated February 3, 2012, reference 02, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs