

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATIE J MCCARTHY
Claimant

APPEAL NO. 09A-UI-16163-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**"R J PERSONNEL INC
"TEMP ASSOCIATES**
Employer

**OC: 10/04/09
Claimant: Appellant (2)**

871 IAC 24.28(6) – Previously Adjudicated Part-Time Voluntary Quit and Disqualification

STATEMENT OF THE CASE:

Katie McCarthy filed a timely appeal from a representative's decision dated October 14, 2009, reference 01, which held the claimant not eligible to receive unemployment insurance benefits finding that a decision on the claimant's February 6, 2009 separation from R J Personnel, Inc. was adjudicated on a previous claim and remains in effect. After due notice a telephone conference hearing was held on December 3, 2009. The claimant participated personally. The employer participated by Ms. Holly Jacobi.

ISSUE:

The issue is whether the claimant is eligible to receive unemployment insurance benefits based upon a previously adjudicated separation from employment.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: Katie McCarthy was previously employed by R J Personnel, Inc. and voluntarily quit employment on February 6, 2009. The claimant's separation was adjudicated and a decision was issued on or about April 28, 2009, reference 04, holding the claimant eligible to receive unemployment insurance benefits based upon other wages in her base period but finding the claimant not eligible to receive benefits from her part-time employment separation from R J Personnel, Inc. Ms. McCarthy opened a claim for a new benefit year effective October 4, 2009 and was held not eligible to receive unemployment insurance benefits because of her February 6, 2009 separation that had been adjudicated previously.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that the claimant is eligible to receive unemployment insurance benefits based upon wages paid by other base period employers excluding the benefits based upon the wages paid by the part-time employer that she voluntarily quit employment. It does.

871 IAC 24.27(96) provides that an individual who voluntarily quits part-time employment without good cause and who has not requalified for benefits following the voluntarily quit of part-time employment, yet is otherwise monetarily eligible for benefits based upon wages paid by other base period employers shall not be disqualified for voluntarily quitting the part-time employment. Unemployment insurance benefits based upon the wages paid by the part-time employer shall not be made to the claimant and a part-time employer's account will not be chargeable. If the individual has met the qualification requirements, however, 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. Charging is determined by federal requalification requirements.

The evidence in the record establishes that Ms. McCarthy voluntarily quit part-time employment with R J Personnel, Inc. on February 6, 2009 and that that separation was adjudicated allowing the claimant to be eligible to receive unemployment insurance benefits excluding benefits based upon wage credits that were earned in part-time employment by R J Personnel, Inc. Ms. McCarthy was eligible to receive unemployment insurance benefits based upon other base period employment. The claimant's act of reopening her claim for benefits for a new benefit year does not cause the claimant to be not eligible to receive unemployment insurance benefits. The claimant continues to be eligible to receive unemployment insurance benefits providing that she has other base period wages that are sufficient. Ms. McCarthy is not eligible to receive unemployment insurance benefits based upon part-time employment with R J Personnel, Inc. and R J Personnel, Inc. is not subject to benefit charging on the claimant's separation from employment that took place on February 6, 2009. Claimant is eligible to receive unemployment insurance benefits based upon wages paid by other base period employers and shall not be disqualified for voluntarily quitting the part-time employment.

DECISION:

The representative's decision dated October 14, 2009, reference 01, is reversed. The claimant is eligible to receive unemployment insurance benefits, provided that she is otherwise monetarily eligible. Benefit payments shall not be made based upon the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs