

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**FREDDIE GARDNER**  
Claimant

**APPEAL NO: 13A-UI-06003-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEST FIELDS HOTELS INC  
BEST WESTERN CANTERBURY INN**  
Employer

**OC: 09/30/12**  
**Claimant: Appellant (4/R)**

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

**STATEMENT OF THE CASE:**

Freddie Gardner (claimant) appealed an unemployment insurance decision dated May 9, 2013, reference 06, which held that he was not eligible for unemployment insurance benefits because he quit his employment with Best Western Canterbury Inn (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 June 27, 2013. The claimant participated in the hearing. The employer participated through Owner Amish Patel, Curtis Wiederin and John Binder.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a part-time cook/food prep worker from December 6, 2012 through January 20, 2013, after which he stopped reporting to work and stopped contacting the employer. The kitchen manager subsequently received a text message that the claimant was in jail and was then moving to Peoria, Illinois due to legal problems. The claimant currently lives in Peoria, Illinois. Continuing work was available.

The claimant contends that he received a call from a female claiming she was from the hotel and she told him not to return to work because he failed the background check. The employer did not conduct a background check on the claimant.

Iowa Workforce records confirm the claimant filed for and received full unemployment insurance benefits while working for this employer since he did not report any wages.

## REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits.

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.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements 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. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant has the burden of proving that the voluntary quit was for a good reason that would not disqualify him. Iowa Code § 96.6-2. He contends he was fired from employment but the evidence does not support that contention. Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without cause attributable to the employer. *LaGrange v. Iowa Department of Job Service*, (Unpublished Iowa Appeals 1984). Even if the claimant received a call from an unknown person stating not to return to work, he should have contacted his supervisor before he stopped reporting to work. He failed to meet his burden and his separation was without good cause attributable to the employer.

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 his maximum weekly benefit amount.

An issue as to whether the claimant reported income from his employer arose as a result of the hearing. This issue was not included in the notice of hearing for this case, and the case will be remanded to Quality Control for an investigation and determination as to whether the claimant had earned but unreported wages. 871 IAC 26.14(5).

**DECISION:**

The unemployment insurance decision dated May 9, 2013, reference 06, is modified in favor of the appellant. The claimant voluntarily quit his 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 his 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. The case is also remanded for an investigation into the claimant's earned but unreported wages.

---

Susan D. Ackerman  
Administrative Law Judge

---

Decision Dated and Mailed

sda/css