

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATT R CAQUELIN
Claimant

APPEAL NO. 15A-UI-05167-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 04/05/15
Claimant: Appellant (4/R)

Iowa Code section 96.5(1) – Voluntary Quit

871 IAC 24.27 – Voluntary Quit of Part-time Employment

STATEMENT OF THE CASE:

Matt Caquelin filed a timely appeal from the April 20, 2015, reference 01, decision that disqualified him for benefits and that relieved Hy-Vee of liability for benefits, based on an Agency conclusion that Mr. Caquelin had been discharge for excessive absences on October 1, 2014. After due notice was issued, a hearing was held on June 8, 2015. Mr. Caquelin participated. Bruce Burgess of Corporate Cost Control represented the employer and presented testimony through Lisa Boucher, Gary Swanson and Dan Goshorn. Exhibits One through Five were received into evidence.

ISSUE:

Whether the claimant separated from the employment for a reason that disqualifies him for benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed by Hy-Vee in Boone as a part-time kitchen clerk from July 2014 and last performed work for the employer on November 14, 2014. On that day, the employer reprimanded the claimant for arriving late for work. The employer suspended the claimant for the remainder of the week. The claimant elected not to return to work at the Boone Hy-Vee. The claimant had planned to relocate from Boone to Woolstock and made his move at that time. At the time the claimant elected not to return to Hy-Vee, Hy-Vee still had work for him at the end of the suspension period.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Admin. Code r. 871-24.25(2), (28) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

(28) The claimant left after being reprimanded.

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.

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 his 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.

The evidence in the record establishes that the claimant voluntarily quit the part-time employment to relocate to a new locality and in response to being reprimanded for attendance. Neither basis for the quit provides good cause attributable to the employer for the quit. Because the voluntary quit was without good cause attributable to Hy-Vee, Hy-Vee's account with Workforce Development will not be charged for benefits paid to the claimant. The claimant is disqualified for benefits *based on the base period wage credits from the Hy-Vee employment* until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant remains eligible for reduced benefits based on other base period wage credits, provided he meets all other eligibility requirements.

This matter will be remanded for redetermination of the claimant's eligibility for reduced benefits based on base period wage credits from employers other than Hy-Vee.

DECISION:

The April 20, 2015, reference 01, decision is modified as follows. The claimant voluntarily quit the part-time employment without good cause attributable to the employer. The employer's account will not be charged for benefits paid to the claimant. The claimant is disqualified for benefits *based on the base period wage credits from the this employment* until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant remains eligible for reduced benefits based on other base period wage credits, provided he meets all other eligibility requirements.

This matter is remanded to the Benefits Bureau for redetermination of the claimant's eligibility for reduced benefits based on base period wage credits from employers other than Hy-Vee.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/mak