

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBORAH M BOWLING

Claimant

APPEAL NO. 07A-UI-06396-JT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACKSON CO REGIONAL HEALTH CTR

Employer

**OC: 06/03/07 R: 04
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

Deborah Bowling filed a timely appeal from the June 22, 2007, reference 01, decision that denied benefits. After due notice was issued, an in-person hearing was held on July 26, 2007. Ms. Bowling participated. The employer did not appear. The administrative law judge took official notice of the Agency's record of benefits disbursed to Ms. Bowling and record of Ms. Bowling's base period employment. Exhibit A was received into evidence.

ISSUES:

Whether Ms. Bowling voluntarily quit or was discharged from the employment. The administrative law judge concludes Ms. Bowling voluntarily quit the part-time employment.

Whether Ms. Bowling's voluntary quit of the part-time employment disqualifies her for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Deborah Bowling commenced her part-time employment with Jackson County Regional Health Center on March 19, 2007. During this employment, Ms. Bowling also had primary, full-time employment with Pacific Coast Feather Company. Because Ms. Bowling's availability for work at Jackson County Regional Health Center was greatly restricted due to her full-time employment with Pacific Coast Feather Company, Ms. Bowling's part-time employment with Jackson County quickly changed to an on-call position. Ms. Bowling worked no more than a few days for Jackson County. On May 19, 2007, Ms. Bowling notified a coworker that she would not be coming to work that day and would not be continuing in the employment with Jackson County. The coworker provided Ms. Bowling with the telephone number of Lura Daniels, Ms. Bowling's supervisor. On May 19, Ms. Bowling left a message on Ms. Daniels' telephone that she was not going to be able to continue in the employment because of her full-time duties at Pacific Coast Feather Company. Ms. Daniels did not receive Ms. Bowling's message containing the quit notice. On May 22, the employer mailed Ms. Bowling notice that she was discharged from the employment.

Jackson County Regional Health Center is not a base period employer for purposes of determining Ms. Bowling's eligibility for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether Ms. Bowling quit or was discharged from the employment. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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. The evidence in the record indicates that Ms. Bowling had already quit the employment at the time the employer made the decision to sever the employment relationship.

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.

The evidence in the record indicates that Ms. Bowling voluntarily quit the part-time, on-call employment without good cause attributable to the employer. The only basis of the quit was Ms. Bowling's inability to meet the demands of both employers and her election to focus on her full-time employment. Because the voluntary quit was without good cause attributable to the employer, it was a disqualifying event. Accordingly, Jackson County Regional Health Center will not be charged for benefits paid to Ms. Bowling. In addition, Ms. Bowling will not be eligible for benefits based on her employment with Jackson County Regional Health Center until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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 the employment was part-time and because Jackson County Regional Health Center is not a base period employer, Ms. Bowling continues to be eligible for benefits, provided she is otherwise eligible, and the voluntary quit will not result in any reduction of benefits.

DECISION:

The Agency representative's June 22, 2007, reference 01, decision is reversed. The claimant voluntarily quit the part-time employment without good cause attributable to the employer. The

claimant is eligible for benefits, provided she is otherwise eligible. The employer's account will not be charged for benefits paid to Ms. Bowling.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css