

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALANNA L MILLER**  
Claimant

**APPEAL NO. 10A-UI-07925-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EDU CARE LEARNING CENTERS INC**  
Employer

**OC: 04/25/10**  
**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:**

Alanna Miller filed a timely appeal from the May 26, 2010, reference 02, decision that denied benefits. After due notice was issued, a hearing was commenced on July 21, 2010 and concluded on August 5, 2010. Ms. Miller participated on July 21, 2010 and provided testimony. Toward the end of Ms. Miller's testimony, she asserted she had not received appropriate notice of the hearing. Based on the claimant's assertion the hearing was adjourned until August 5, 2010. On August 5, 2010, Ms. Miller was not available at the number that she had provided for the hearing. Kevin McCarville, President, represented the employer on July 21, 2010 and August 5, 2010. Exhibit A was received into evidence.

**ISSUE:**

Whether Ms. Miller separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Alanna Miller was employed by Edu Care Learning Centers, Inc., as a part-time teacher associate in a special education classroom from September 2009 until November 10, 2009, when she last appeared for work. The employer continued to have work available for Ms. Miller. Ms. Miller's departure from the employment was contemporaneous with an incident of theft of money that occurred in the classroom to which Ms. Miller was assigned. Ms. Miller was not the victim of the theft. The employer did not determine that Ms. Miller was responsible for the theft. Ms. Miller did not make further contact with the employer.

On November 17, a person who represented herself as Ms. Miller's mother telephoned the employer to inquire about Ms. Miller's final paycheck. On November 20, a man who represented himself as a friend of Ms. Miller's telephoned the employer to inquire about Ms. Miller's final paycheck. At no time during these contacts did the caller indicate that Ms. Miller had been in any kind of accident.

Ms. Miller testified that she was in a motor vehicle accident during the first week of January 2010. That would have been a month and a half after Ms. Miller ceased appearing for work with Edu Care Learning Centers, Inc.

**REASONING AND CONCLUSIONS OF LAW:**

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.

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 weight of the evidence in the record establishes that Ms. Miller voluntarily quit the part-time employment for personal reasons, not for good cause attributable to the employer. The quit was effective November 10, 2009, the last day Ms. Miller appeared for work or made contact with the employer. The weight of the evidence indicates that the quit had nothing to do with the motor vehicle accident Ms. Miller testified happened at the start of 2010.

Ms. Miller is disqualified for benefits based on wages from this employment 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. The employer's account shall not be charged for benefits paid to Ms. Miller. Ms. Miller would be eligible for benefits based on base period wages from other employer's, provided she meets all other applicable eligibility requirements.

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.

This matter will be remanded to the Claims Division for determination of Ms. Miller's eligibility for reduced benefits based on base period wage credits from employment other than Edu Care Learning Centers, Inc. The remand should also direct whether the claimant has been able to work and available for work since she established her claim for benefits.

**DECISION:**

The Agency representative's May 26, 2010, reference 02, decision is modified as follows. The claimant voluntarily quit the part-time employment without good cause attributable to the employer. The claimant is disqualified for benefits based on wages earned from this employment until she has worked in a been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged. The claimant remains otherwise eligible for benefits based on base period wages from other employer's, provided she meets all other applicable eligibility requirements.

This matter is remanded to the Claims Division for determination of the claimant's eligibility for reduced benefits based on base period wage credits from employment other than Edu Care Learning Centers, Inc. The remand should also direct whether the claimant has been able to work and available for work since she established her claim for benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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