

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

VERLA R NEHRING
3806 E OVID AVE
DES MOINES IA 50317-5853

HVM LLC
c/o ADP UC EXPRESS
PO BOX 66744
ST LOUIS MO 63166-6744

VERLA NEHRING
202 SE 30TH #308
ANKENY IA 50021

Appeal Number: 06A-UI-08185-JTT
OC: 07/02/06 R: 02
Claimant: Appellant (4R)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

Verla Nehring filed a timely appeal from the August 3, 2006, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on August 29, 2006. Ms. Nehring participated. Roxanne Rose of ADP UC Express represented the employer and presented testimony through Area Operations Manager Kirsten Emmack.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Verla Nehring was employed by HVM as a part-time overnight laundry attendant from March 5 to March 12, 2006, when she quit. Ms. Nehring knew the employment would involve overnight hours, but found it difficult to adjust to those hours. Ms. Nehring quit because of the hours of

employment. Ms. Nehring notified Hotel Manager Kirsten Emmack of her reason for quitting the employment. Continued employment was available.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Nehring's voluntary quit was for good cause attributable to the employer. It does not.

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.

Where an employee quits employment because of a dislike of the shift worked, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(18).

The evidence in the record establishes that Ms. Nehring voluntarily quit the employment without good cause attributable to the employer, due to a dislike of the shift worked. The quit was a disqualifying event. The employer's account will not be charged. Ms. Nehring is not eligible for benefits based on base period wage credits earned from the brief employment at HVM.

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. Accordingly, this matter will be remanded to a claims representative for redetermination of Ms. Nehring's eligibility for reduced benefits based on wage credits earned from base period employment other than the employment with HVM.

DECISION:

The Agency representative's decision dated August 3, 2006, reference 03, is modified as follows. The claimant voluntarily quit the part-time employment without good cause attributable to the employer. The claimant is not eligible for benefits based on base period wage credits earned from the brief employment with HVM. The employer's account will not be charged. The matter is remanded to a claims representative for redetermination of the claimant's eligibility for reduced benefits based on wage credits earned from base period employment other than the employment with HVM.

jt/pjs