

**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**

**BRANDY D KERMOADE
3127 – 10TH AVE
COUNCIL BLUFFS IA 51501**

**REGIS CORPORATION
c/o EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000**

**Appeal Number: 05A-UI-07385-CT
OC: 06/05/05 R: 01
Claimant: Respondent (2-R)**

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

STATEMENT OF THE CASE:

Regis Corporation filed an appeal from a representative's decision dated July 7, 2005, reference 02, which held that no disqualification would be imposed regarding Brandy Kermoade's separation from employment. After due notice was issued, a hearing was held by telephone on August 23, 2005. Ms. Kermoade participated personally. The employer participated by Sarah Craigo, Area Manager, and was represented by Michelle Hawkins of Employers Unity, Inc.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Kermoade's last period of employment with

Regis Corporation began on March 28, 2005. She worked part time as a hair stylist in the employer's salon. When she returned to the employment, the manager agreed to work around her school schedule. Ms. Kermoade was available to work before 5:00 p.m. on weekdays and the full day on weekends. She last worked on April 8.

During the early part of April, the employer was in the process of placing a new manager in the salon. When Ms. Kermoade saw her schedule before April 8, she noted that she was scheduled to work hours she was not available. She left a note for the former manager indicating she could not work the scheduled hours. The former manager did not contact Ms. Kermoade in response to the note. Ms. Kermoade was scheduled to work on April 11 but did not report for work. The new manager left an answering machine message for her on April 11 indicating what hours were available for her. Ms. Kermoade believed from the tone of the message that the new manager was unwilling to work around her school schedule. She did not return the new manager's call and did not attempt to talk to the area manager about the scheduling issue. Ms. Kermoade simply stopped reporting for work. Continued work was available for her.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Kermoade was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Kermoade quit because the employer failed to abide by the agreement to work around her school hours. The employer does not dispute that there was such an agreement. The employer did, in fact, schedule Ms. Kermoade for hours that were not consistent with her availability. However, the administrative law judge concludes that the employer was not given a fair and reasonable opportunity to resolve the issue.

Ms. Kermoade last worked on April 8. She received a message from the new manager on April 11 but did not return the call. Although she believed the schedule had been prepared by the new manager, she made no effort to confirm whether the new manager was aware of the agreement made by the former manager to accommodate her class schedule. Moreover, she could have addressed her concerns with the area manager but failed to do so. Because the employer was not given an opportunity to try to remedy the scheduling issue before Ms. Kermoade quit, it is concluded that her quit was not for good cause attributable to the employer.

An individual who voluntarily quits part-time employment may nevertheless qualify for job insurance benefits if there are sufficient other wage credits in the base period of the claim to establish a valid claim. 871 IAC 24.27(96). Ms. Kermoade has sufficient other wage credits. This matter shall be remanded to claims to re-compute the weekly and maximum benefit amounts. Whether Ms. Kermoade has been overpaid benefits will necessarily depend on the new weekly benefit amount.

DECISION:

The representative's decision dated July 7, 2005, reference 02, is hereby reversed. Ms. Kermoade voluntarily quit part-time employment with Regis Corporation for no good cause attributable to the employer but has sufficient other wage credits in the base period to establish a valid claim. Benefits are allowed, provided she satisfies all other conditions of eligibility, but

shall not be charged to Regis Corporation. This matter is remanded to Claims to re-compute Ms. Kermoade's entitlement and determine whether she has been overpaid.

cfc/kjw