

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TANYA L WINGROVE
Claimant

APPEAL NO: 11A-UI-15572-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JALAS ENTERPRISES INC
Employer

**OC: 11/06/11
Claimant: Respondent (4)**

Iowa Code 96.1 – Voluntary Quit
871 IAC 24.27 – Voluntary Quit Part Time Employment

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 1, 2011 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant responded to the hearing notice, but did not answer her phone when called. A message was left for the claimant to contact the Appeals Section immediately if she wanted to participate in the hearing. Jeremy Jalas, the owner, appeared on the employer's behalf.

After the hearing had been closed and the employer had been excused, the claimant called the Appeals Section to participate in the hearing. The claimant requested that the hearing be reopened. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the claimant establish good cause to reopen the hearing?

Did the claimant voluntarily quit her part time employment for reasons that qualify her to receive benefits, or did the employer discharge her for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on June 30, 2011. The employer hired her to work 10 to 20 hours a week as a clerk. Jalas received information from the store manager that the claimant had sent the manager a text on September 13, 2011. The text informed the manager the claimant quit because she had another job. There is no evidence that the claimant worked for another employer after September 13, 2011.

The claimant established a claim for benefits during the week of November 6, 2011. The administrative record indicates the claimant had the following wages in her base period.

	2010/3	2010/4	2011/1	2011/2
ATCO FOODS INC	4	1236	1381	123

The employer is not one of the claimant's base period employers. The claimant's maximum weekly benefit amount is \$65.00.

After the hearing had been closed and the employer had been excused, the claimant responded to the message left by the administrative law judge and called the Appeals Section. The claimant did not hear her phone ring when she was called for the hearing. She had taken her daughter to school and was in the process of moving. When the claimant noticed she had a message, she listened to it and called the Appeals Section. The claimant made a request that the hearing be reopened.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c). The claimant did not establish good cause to reopen the hearing. Even though the claimant was busy getting her daughter to school and was in the process of moving, these reasons do not establish good cause for not being available for an 8:00 a.m. scheduled hearing. Since the claimant did not contact the Appeals Section before the hearing was closed, her request to reopen the hearing is denied.

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

If a claimant quits because she has accepted another job, she is not disqualified from receiving benefits and the employer's account will not be charged. Iowa Code § 96.5(1)a. Since the claimant did not participate in the hearing and there is no indication she earned wages from any employer after she quit on September 13, 2011, this law does not apply.

Based on the evidence presented during the hearing, the claimant quit her employment, but she quit for reasons that do not qualify her to receive benefits. If this had been full time employment, the claimant would not be qualified to receive benefits. Since the claimant quit this employment without good cause, the employer's account is not subject to charge.

When a claimant quits a part time job without good cause and has not earned requalifying wages, she can be eligible to receive benefits if she has wages in her base period that make her monetarily eligible to receive benefits. 871 IAC 24.27. The claimant has base period wages from another employer that make her monetarily eligible to receive benefits. The employer is not one of the claimant's base period employers. Therefore, based on the reasons for this employment separation, the claimant is not disqualified from receiving benefits. The wage credits the claimant earned from the employer cannot be used to determine her monetary eligibility in a new benefit year until she earns ten times her weekly benefit amount.

Even though the claimant is not disqualified from receiving benefits based on this employment, her employment with ATCO Foods was for disqualifying reasons. Even though the claimant earned \$465.00 from this employer, she must earn a total of \$650.00 before she requalifies to receive benefits based on her employment separation from ATCO Foods.

DECISION:

The claimant's request to reopen the hearing is denied. The representative's December 1, 2011 determination (reference 01) is modified in the employer's favor. The employer did not discharge the claimant. Instead, the claimant voluntarily quit her part-time job without good cause. The employer's account will not be charged. Since the claimant has wage credits in her base period that make her monetarily eligible to receive benefits, this employment separation does not disqualify the claimant from receiving benefits. The claimant is not qualified to receive benefits based on an earlier employment separation from another employer. She must earn \$650.00 from insured work before she requalifies to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs