

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER D ROCKEY
Claimant

APPEAL NO. 06A-UI-10002-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 08/20/06 R: 03
Claimant: Respondent (2)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Hy-Vee, Inc. filed an appeal from a representative's decision dated October 5, 2006, reference 01, which held that no disqualification would be imposed regarding Jennifer Rockey's separation from employment. After due notice was issued, a hearing was held by telephone at 8:00 a.m. on October 26, 2006. The employer participated by Robert Lewin, Store Director; Del Skroh, Market Manager; and Rose Kline, Manager of Store Operations. Exhibit One was admitted on the employer's behalf. The employer was represented by David Williams of TALX Corporation.

Ms. Rockey did not respond to the hearing notice until 8:18 a.m., after the hearing record closed at 8:16 a.m. Because her failure to participate in the hearing was due to her failure to read and follow the instructions on the hearing notice, the administrative law judge declined to reopen the hearing record.

ISSUE:

At issue in this matter is whether Ms. Rockey was separated from employment for any disqualifying reason.

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. Rockey began working for Hy-Vee, Inc. on January 23, 2006 as a meat wrapper. Although she was classified as part time, she was usually scheduled to work from 38 to 40 hours each week. Ms. Rockey last worked on June 22. She did not work on June 24 or June 25. She called on June 29 to report that she would be absent due to illness. She did not thereafter return to work or notify the employer of her intentions. She was absent without notice on June 30 and July 1, 3, 4, 6, and 7. Continued work would have been available if Ms. Rockey had continued reporting for work.

Ms. Rockey was scheduled for fewer hours during the payroll periods beginning June 19. For the last three pay periods, she was scheduled for 34, 21, and 31 hours. She was scheduled for

fewer hours because she had been missing work and arriving at work late. Ms. Rockey never advised the employer that she intended to quit because of the reduction in hours.

Ms. Rockey filed a claim for job insurance benefits effective August 20, 2006. She has received a total of \$1,360.00 in benefits since filing her claim.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes from the evidence that Ms. Rockey abandoned her job when she stopped reporting for available work. As such, her separation is considered a voluntary quit. 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. Rockey apparently quit because of a reduction in her hours. However, she never advised the employer that she was quitting or intended to quit because of the reduction. She did not give the employer a reasonable opportunity to restore her hours, thereby avoiding the need to quit. If an employer is not aware of a problem, the employer cannot take steps to remedy it and avoid liability for job insurance benefits. For the above reasons, the administrative law judge concludes that quitting because of the reduction in hours did not constitute good cause attributable to the employer.

The evidence of record does not identify any other reason for Ms. Rockey's separation. Because she did not have good cause attributable to the employer for quitting, benefits are denied. She has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated October 5, 2006, reference 01, is hereby reversed. Ms. Rockey voluntarily quit her employment for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Rockey has been overpaid \$1,360.00 in job insurance benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/cs