

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GABRIELLE A STONER
Claimant

APPEAL NO. 10A-UI-02174-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABCM CORPORATION
Employer

OC: 01/10/10
Claimant: Respondent (2-R)

Section 96.(1) – Quit

STATEMENT OF THE CASE:

The employer, ABCM, filed an appeal from a decision dated February 1, 2010, reference 01. The decision allowed benefits to the claimant, Gabrielle Stoner. After due notice was issued, a hearing was held by telephone conference call on March 29, 2010. The claimant participated on her own behalf. The employer participated by Administrator Peggy Chensvold and Office Manager Julie Caspers.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Gabrielle Stoner was employed by ABCM from November 3, 2008 until January 12, 2010. She was originally the human resources director working four days per week. While on maternity leave in the fall of 2009, Administrator Peggy Chensvold met with her personally, to discuss changes the corporation would be implementing. The new directive said she would have to work five days a week as the human resources director. She was offered the position of marketing director which would enable her to keep working the four-day week, and she accepted. Business Account Coordinator Julie Caspers, also spoke with her by phone about other changes which were being made. The corporation had decided to have the human resources directors in all the facilities be responsible for the payroll.

Ms. Stoner returned from maternity leave in November 2009 and trained her replacement, Heidi Leibold. She then began her duties as marketing director on January 4, 2010. On January 11, 2010, she came late to a staff meeting where Ms. Chensvold spoke about the changes being mandated by the corporate office. The purpose of the meeting was to discuss potential concerns and problems and to work out suggestions to help with the transition. By the time Ms. Stoner arrived it had been decided she would be assigned certain duties she had done as the human resources director such as answer the phones and help with payroll. Because she had arrived late she did not understand this was a temporary situation.

Later that day Ms. Leibold came to Ms. Stoner's office and said it was Tammy Sands, who was then the office manager, who had suggested the human resources director do the payroll. Ms. Stoner felt she had been "lied to" by Ms. Caspers about this change being a corporate directive. Apparently Ms. Sands merely meant it had been her idea to have Ms. Stoner help out during the transition. Ms. Stoner went to Ms. Chensvold's office to discuss her concerns but the administrator was in the middle of a meeting with a corporate representative and told the claimant she would "get back to her."

About an hour later the administrator went looking for Ms. Stoner but she had already left the facility. The next day Ms. Leibold received an e-mail resignation from the claimant. The reason given was that she felt she had been lied to and not treated with the respect she deserved. She was contacted by Ms. Leibold by phone to discuss her concerns but she said she was "too upset" and declined to discuss the matter. Two days later Ms. Leibold again contacted her by phone at which time she agreed to drop off her keys and pick up an exit interview which she would fill out and return by mail. Although she did drop off her keys she never returned the exit interview.

Gabrielle Stoner has received unemployment benefits since filing a claim with an effective date of January 10, 2010.

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.

The claimant was apparently distraught over changes being made by the corporate office and mandated for all facilities. Her contention that she was "lied to" about who had changed the policy to have the human resources director to do payroll appears to have been a miscommunication. The matter could have been cleared up if Ms. Stoner had waited to discuss her concerns with the administrator rather than leaving the facility and then e-mailing her resignation.

The claimant did not specify what her concerns were that she "did not get the respect she deserved." The record establishes the employer worked with her every step of the way about her change in job and training her replacement. If the administrator was already involved in a meeting when the claimant came to her office on January 11, 2010, it is not reasonable for Ms. Stoner to expect to take priority when the rest of the day remained for them to meet.

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Florida App. 1973). The claimant was distraught but did not take the time to discuss these concerns in detail. In order for good cause attributable to the employer to exist, a claimant with grievances must make some effort to give the employer an opportunity to work out whatever problem led to the grievance. By not giving notice to the employer of the circumstances causing the decision to quit employment, the claimant failed to give the employer an opportunity to make adjustments which would alleviate the need to quit. *Denby v. Board of Review*, 567 P.2d 626 (Utah 1977).

The record establishes the claimant quit without good cause attributable to the employer and is disqualified from receiving benefits.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which she is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

DECISION:

The representative's decision of February 1, 2010, reference 01, is reversed. Gabrielle Stoner is disqualified and benefits are withheld until she has earned ten times her weekly benefit

amount, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css