

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RACHELLE A GABNAY**

Claimant

**APPEAL NO: 09A-UI-04439-DW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TRANS-TECH SERVICES OF IOWA**

Employer

**OC: 02/22/09**

**Claimant: Respondent (2/R)**

Section 96 .5 -1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Trans-Tech Services of Iowa (employer) appealed a representative's March 13, 2009 decision (reference 01) that concluded Rachelle A. Gabnay (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant voluntarily quit her employment for reasons that qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, an in-person hearing was held on June 3 in Waterloo. The claimant did not appear for the hearing. Jodi Voight and Susan Ray appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer on November 20, 2006. The claimant worked as a full-time medical transcriptionist. When the claimant accepted the employment she agreed full-time employment required her to complete a minimum of 1,200 lines per day, and the employer could require a home-based transcriptionist to return to the employer's home office in Ankeny for an unspecified time for additional training and troubleshooting. (Employer Exhibit Four.) The claimant was a home-based transcriptionist.

In March 2007, the claimant met and exceeded the employer's quality standards. In July 2007, the claimant only averaged 890 lines a day. The employer counsel and talked to the claimant about her failure to adequately communicate with the employer and to perform the minimum 1,200 lines per day. On July 23 and August 19, 2008, the employer gave the claimant written warnings for unsatisfactory job performance. On September 26, the employer had an in-house meeting with the claimant and warned her that if she did complete 1,200 lines per day, communicate with the employer, enter lines daily and have 98 percent quality rating, she would have to return and work from the employer's home office for retraining. When the claimant failed to meet the employer's minimum requirements to work from her home, the employer told

the claimant she had to work in the employer's office so she could meet the minimum standards of the job. Although the claimant was supposed to start working at the employer's office on November 3, this was changed to November 17. (Employer Exhibit Two.) The employer understood the claimant did not object to working from the employer's office because she wanted to remain employed.

On November 13, the claimant emailed the employer her resignation which was effective as of November 10, 2009. (Employer Exhibit Three.) The claimant did not give the employer any reasons for resigning.

The claimant established a claim for benefits during the week of February 22, 2009. The claimant has received benefits since February 22, 2009.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant quit on November 13 when she submitted her resignation. 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.

The law presumes a claimant voluntarily quits employment with good cause when she leaves because of a substantial change in the employment. 871 IAC 24.26(1). Assume the claimant quit because she had to work in employer's office until she resolved performance issues and met the employer's minimum requirement of 1,200 lines per day. When the claimant accepted the job, she signed an employment agreement indicating the employer may require a home-based transcriptionist to return to the employer's home office for an unspecified time for additional training and troubleshooting. The employer gave the claimant more than a year to make the necessary adjustments to correct the performance issues and the claimant did not take the necessary steps to improve. Based on the terms of the employment contract, the employer did not substantially change the claimant's employment. Instead, the employer had the claimant return to the employer's home office to be retrained so she could meet the employer's minimum performance standards. The evidence does not establish that the claimant quit her employment for reasons that qualify her to receive benefits.

Since the claimant received benefits since February 22, 2009, the issue of overpayment or whether the claimant is eligible for a waiver of any overpayment shall be remanded to the Claims Section.

#### **DECISION:**

The representative's March 13, 2009 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits have of February 22, 2009. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be

charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is remanded to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css