

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SARAH L WILCOX**  
Claimant

**APPEAL NO. 13A-UI-10382-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LENSCRAFTERS INC**  
Employer

**OC: 08/04/13**  
**Claimant: Respondent (2)**

Section 96.5(1) – Quit  
Section 96.3(7) – Overpayment  
871 IAC 24.50(10) – Employer Participation

**STATEMENT OF THE CASE:**

The employer, Lenscrafters, filed an appeal from a decision dated August 30, 2013, reference 01. The decision allowed benefits to the claimant, Sarah Wilcox. After due notice was issued, a hearing was held by telephone conference call on October 7, 2013. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by Manager Rachel Joyce and was represented by TALX in the person of Toni McColl, who also gave testimony.

**ISSUE:**

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

**FINDINGS OF FACT:**

Sarah Wilcox was employed by Lenscrafters from April 2, 2012 until August 16, 2013 as a part-time associate. Her last day of work was July 13, 2013, and she was no call. Her last day of work was July 13, 2013, and she called in absent on July 14, and also on July 17, 2013, stating she did not have transportation. She was no-call/no-show to work after that date and the corporate office officially declared her to have voluntarily quit as of August 16, 2013.

The employer responded to the notice of claim with a letter written on Equifax letterhead August 14, 2013, protesting the claim. A second letter on August 26, 2013, notified Iowa Workforce Development of the name and phone number of the person to participate on behalf of Lenscrafters but that person was not contacted on the day of the interview. There is no indication this person would not have participated if the agency had called as requested.

Sarah Wilcox has received unemployment benefits since filing a claim with an effective date of August 4, 2013.

## 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.

871 IAC 24.25(1) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

The claimant abandoned her job, apparently due to lack of transportation. She did not contact the employer for over four weeks and must be considered to be a voluntary quit without good cause attributable to the employer. She is disqualified.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code section 96.3-7-a, -b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid benefits.

Because the employer participated in the fact-finding interview, the claimant is required to repay the overpayment and the employer will not be charged for benefits paid.

**DECISION:**

The representative's decision of August 30, 2013, reference 01, is reversed. Sarah Wilcox is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible. The claimant is overpaid unemployment benefits in the amount of \$1,776.00. This must be recovered in accordance with the provisions of Iowa law.

---

Bonny G. Hendricksmeier  
Administrative Law Judge

---

Decision Dated and Mailed

bgh/css