

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JODI R MOORE
Claimant

APPEAL NO. 14A-UI-10557-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REGENCY REHAB AND SKILLED NURSING
Employer

OC: 09/14/14
Claimant: Respondent (2)

Iowa Code § 96.5-1 – Voluntary Quit
Iowa Code § 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Regency Rehab and Skilled Nursing, LLC (employer) appealed an unemployment insurance decision dated October 1, 2014 (reference 02) which held that Jodi Moore (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 29, 2014. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which d could be contacted, and therefore, did not participate. The employer participated through Diane Buman, Laundry Supervisor, and Denise Sprinkel, Human Resources/Account Payable/Payroll.

ISSUES:

The issues are whether the claimant is disqualified for benefits, whether she was overpaid unemployment insurance benefits, whether she is responsible for repaying the overpayment and whether the employer's account is subject to charge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed full time in housekeeping and laundry from August 21, 2006 through September 12, 2014 when she walked off the job. She wrote a note that said, "I'm not coming back, keys on the fridge." The employer is unaware of why the claimant quit her employment. She requested a day off work and the employer gave her three options but she did not like what was offered.

The claimant filed a claim for unemployment insurance benefits effective September 14, 2014 and has received benefits after the separation from employment in the amount of \$798.00. Denise Sprinkel, Human Resources/Accounts Payable/Payroll, participated in the fact-finding interview on behalf of the employer. The fact-finder called her but she missed the call. Ms. Sprinkel returned the call and spoke with a fact-finder named Phillip.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant walked off the job on September 12, 2014 after working part of her shift. She did not participate in the hearing and the employer has no knowledge of why the claimant quit her employment.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden. Benefits are denied.

Because the claimant has been deemed ineligible for benefits, any benefits she has received could constitute an overpayment. The unemployment insurance law requires benefits be recovered from a claimant who receives benefits from an initial decision and is later denied benefits from an appeal decision, even though the claimant acted in good faith and was not otherwise at fault. In some cases, the claimant might not have to repay the overpayment if both of the following conditions are met: 1) there was no fraud or willful misrepresentation by the claimant; and 2) the employer failed to participate in the fact-finding interview. If the overpayment is waived due to the employer's failure to participate, that employer's account continues to be subject to charge for the overpaid amount. See Iowa Code § 96.3-7.

The claimant received benefits in the amount of \$798.00 as a result of this claim. A waiver cannot be considered because the employer participated in the fact-finding interview. See 871 IAC 24.10. Its account is not subject to charge and the claimant is responsible for repaying the overpayment amount.

DECISION:

The unemployment insurance decision dated October 1, 2014 (reference 02) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant is overpaid \$798.00 in benefits which must be repaid.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/can