

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINE A YOUNG
Claimant

APPEAL NO. 08A-UI-01690-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

**OC: 07/15/07 R: 01
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Cargill Meat Solutions Corporation (employer) appealed a representative's February 8, 2008 decision (reference 02) that concluded Christine A. Young (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant's employment separation was for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 5, 2008. The claimant participated in the hearing. Lydia Borer, the training supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on August 9, 2007. The employer hired the claimant as a full-time probationary general laborer employee.

During her employment, the employer had some performance issues with the claimant and talked to her several times. On December 14, the claimant had carpal tunnel surgery on her right hand. The claimant was performing work with her left hand on December 18, 2008. The employer's nurse, B.S., told the claimant that day that starting on Monday she would be working at another job, wiping wet seals. The claimant did not believe this job accommodated her work restrictions of keeping her right hand clean, dry and quiet and objected to this assignment. After B.S. told the claimant that she was not going to tell him what work she would do, they went to talk to a human resource representative.

Although the claimant asked that a union steward to be present during this discussion, the employer denied this request. The employer wanted to resolve this issue, but the claimant felt the employer was intimidating and wanted to stop the discussion until a later time. After the employer made the comment that based on her conduct she was refusing work, the claimant became more frustrated and walked out. The claimant did not return to work.

The claimant reopened her claim for benefits during the week of January 6, 2008. The claimant filed claims for the weeks ending January 12 through March 8, 2008. She received her maximum weekly benefit amount of \$314.00 for each of these weeks.

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, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. Even though according to the claimant's testimony the employer did not allow the claimant to have a union steward present or continue the discussion to a later time, the claimant initiated her employment separation when she became frustrated, walked out, and did not return. When a claimant quits, she has the burden to establish she quit for reasons qualifying her to receive benefits. Iowa Code § 96.6-2.

The claimant established compelling and personal reasons for quitting her employment. Even though the claimant disagreed with the job the employer wanted her to work the next Monday, she made assumptions that may or may not have been accurate. The employer's heavy-handed approach in dealing with the claimant may not have been professional, but the facts do not establish the claimant worked in intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant quit when she was extremely frustrated with the employer. Her reasons for walking out and quitting do not qualify her to receive unemployment insurance benefits. As of December 16, 2007, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefit for the weeks ending January 12 through March 8, 2008. The claimant has been overpaid \$2,826.00 in benefits she received for these weeks.

DECISION:

The representative's February 8, 2008 decision (reference 02) is reversed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of December 16, 2007. 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 claimant has been overpaid and must repay a total of \$2,826.00 in benefits she received for the weeks ending January 12 through March 8, 2008.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw