

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARTHA J KNAPP

Claimant

APPEAL NO. 06A-UI-10566-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALL SEASONS WEEDS

Employer

**OC: 09/24/06 R: 03
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

All Seasons Weeds (employer) appealed a representative's October 27, 2006 decision (reference 01) that concluded Martha J. Knapp (claimant) was qualified to receive unemployment insurance 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, a telephone hearing was held on November 13, 2006. The claimant participated in the hearing with her witnesses, Barb Smith and Elissa Lewis. Rex Holloway, Anthony Ranard, Carolee Bruner and Nancy Mecko 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?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in October 2004. The claimant worked as a full-time florist. Mecko was the claimant's supervisor. Even though the employer made changes in the claimant's job as she requested, the claimant was not happy and started looking for other employment in July. The employer did not know the claimant was looking for another job until September 23, 2006.

During the course of her employment, the employer considered the claimant's work performance exceptional but talked to her several times about her attitude at work. The claimant did not easily accept criticism about her work or her attitude. During the last months of the claimant's employment, the claimant did not believe she could do anything right in the employer's eyes. If she talked, the employer told her she talked too much and if she was quiet, the employer accused her of sulky and not being courteous. The claimant considered herself in

a no-win situation. During the last weeks of the claimant's employment she went home upset and crying.

On September 18, the employer told the claimant and other employees about new work duties. As of September 18, Mecko was to take over the weddings and the claimant would be in charge of floral arrangements, waiting on customers and daily work. Although the employer finally took the claimant off weddings as she had requested in March, the claimant assumed this was the employer's first step in trying to get her to quit. The claimant believed the employer had done the same thing to Lewis when she quit about a year ago.

After the employer announced the change of job duties, the claimant did not say much to Mecko or Holloway on a personal level for the rest of the week. On Saturday morning, September 23, the claimant gave Holloway receipts for the extra Christmas lights she had purchased for a display. Since Holloway had only authorized an additional \$50.00, he told the claimant he would not reimburse her for the over \$100.00 bill she gave him. The claimant told him this was all right.

Later in the afternoon when the owners were gone, Mecko met with the claimant and asked if there was anything bothering her. Mecko told the claimant that she noticed during the week the claimant had not talked to Holloway or Mecko as she normally did. The claimant started crying and told Mecko she felt the employer was not satisfied with anything she did. Mecko responded by telling the claimant she needed to disregard the stressful times, go with the flow and just do what the employer asks her to do. Later during the conversation, the claimant responded to Mecko's questions with a yes ma'am or no ma'am. Mecko concluded the claimant was rude and sarcastic to Mecko by the way she looked at Mecko, the tone of her voice and saying ma'am even though the claimant knew Mecko did not like this. Mecko also learned the claimant was looking for another job.

After Mecko left the meeting, Holloway contacted Mecko to find out how the meeting went. Mecko summarized her version of the meeting. After Holloway told Ranard about Mecko's meeting, Ranard called the store to talk to the claimant. Ranard told the claimant that effective immediately, she had to show respect to Mecko and Holloway and she could no longer be rude, sarcastic or make any smart remarks at work. When the claimant asked if she was discharged, Ranard told her he expected her to be at work as scheduled on Monday.

The claimant did not report to work after September 23, 2006. The claimant quit because she concluded the employer was trying to make her quit and created such a hostile environment that she could no longer work for the employer.

The claimant established a claim for unemployment insurance benefits during the week of September 30, 2006. The claimant filed claims for the weeks ending September 30 and October 7, 2006. The claimant received her maximum weekly benefit amount of \$257.00 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. Iowa Code § 96.5-1. The claimant voluntarily quit her employment when she did not return to work after September 23, 2006. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The law presumes a claimant quits with good cause when she leaves employment because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The law also presumes a claimant quits without good cause when she leaves employment after receiving a reprimand. 871 IAC 24.25(28). The claimant asserted she quit because of a hostile work environment. From the claimant's perspective it is easy to understand why she believed she worked in a hostile work environment. However, based on the evidence and the demeanor of the witnesses at the hearing, the employer had legitimate issues regarding the claimant's attitude. As a result, the claimant was not without some responsibility for the employer's response to her and the work environment.

One witness, Smith, said it best when she testified, "Everyone took things too seriously ... and problems kept accumulating." The claimant, Mecko and the owners made conclusions based on someone's body language, the way someone looked at a person, the tone of a person's voice and what a person said or did not say. Each person, the claimant, Mecko, Holloway and Ranard, jumped to inaccurate conclusions. Instead of attempting to resolve the issues by talking and listening to one another, the parties jumped to the most negative conclusion possible.

The September 23 discussion Mecko had with the claimant was a potential step in the right direction. However, instead of listening and attempting to address the claimant's concerns with the owners, Mecko apparently gave Holloway her impression about the result of the conversation. In her summary, Mecko not only relayed that the claimant was looking for another job, but that the claimant again had been rude and sarcastic to Mecko during the discussion. While the employer's reaction to Mecko's summary may have been unnecessary and a bit strong, Ranard's directive was not totally unreasonable.

The evidence establishes the claimant made the RIGHT decision for her when she quit. The facts do not, however, establish that the employer created a hostile work environment. The claimant is a sensitive, creative person who made some inaccurate conclusions. These conclusions fostered feelings that the employer was trying to force her to leave. The evidence does not indicate the claimant's job was in jeopardy or that the employer wanted the claimant to leave. The claimant quit for compelling personal reasons that do not qualify her 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 benefits for the weeks ending September 30 and October 7, 2006. The claimant has been overpaid \$514.00 in benefits she received for these weeks.

DECISION:

The representative's October 27, 2006 decision (reference 01) is reversed. The claimant voluntarily quit her employer for compelling reasons. These reasons do not, however, qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of September 24, 2006. 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 is not legally entitled to receive benefits for the weeks ending September 30 and October 7, 2006. The claimant has been overpaid and must repay a total of \$514.00 in benefits she received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/cs