

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

STACEY L NEWELL
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OSKALOOSA IA 52577

MAHASKA COUNTY HOSPITAL
ATTENTION ADMINISTRATOR
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OSKALOOSA IA 52577

Appeal Number: 04A-UI-07919-S2T
OC: 06/13/04 R: 03
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Mahaska County Hospital (employer) appealed a representative's July 8, 2004 decision (reference 01) that concluded Stacey Newell (claimant) voluntarily quit due to a change in the contract for hire. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 12, 2004. The claimant participated personally. The employer participated by Burdette Brown, Director of Materials Management; Kim Langfitt, Human Resources Assistant; and Joe Hohenberger, Chief Financial Officer.

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 hired on September 16, 1992 as a part-time materials management technician. The claimant worked Monday, Wednesday and Friday. Due to financial restraints the employer underwent a restructuring. In May 2004 the employer told the claimant she would have some new duties, work Monday through Friday in the mornings and she would work with the Director of Material Management. The employer asked her to think about the changes which would take place June 11, 2004. The employer offered to train the claimant on her new duties.

On June 9, 2004, the claimant met with the Human Resources Department and asked questions. The claimant did not appear for work after June 11, 2004. She did not like the change in hours, she felt uncomfortable with the new duties and working closely with the Director of Materials Management. The claimant did not tell the employer she would quit if her concerns were not addressed.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes she did.

871 IAC 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

An employee must give prior notice to the employer before quitting due to a change in the contract of hire. In order to show good cause for leaving employment based on a change in the contract for hire, an employee is required to take the reasonable step of informing the employer about the change that the employee believes are substantial and that she intends to quit employment unless the concerns are addressed. The employer must be allowed a chance to correct those conditions before the employee takes the drastic step of quitting employment. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The claimant did not inform the employer of the substantial change at issue nor that she intended to quit if the changes were not addressed. Due to the claimant's failure to give the employer notice, there cannot be a finding that she left work with good cause attributable to the employer and, therefore, the claimant is not eligible to receive unemployment insurance benefits.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in

good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received benefits in the amount of \$875.00 since filing her claim herein. Pursuant to this decision, those benefits now constitute an overpayment which must be repaid.

DECISION:

The representative's July 8, 2004 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are denied. The claimant is overpaid benefits in the amount of \$875.00.

bas/b