

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DIANDRA L CLARK
Claimant

APPEAL NO. 09A-UI-08703-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRINITY REGIONAL MEDICAL CENTER
Employer

**Original Claim: 05/10/09
Claimant: Respondent (2-R)**

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Trinity Regional Medical Center (Trinity) filed an appeal from a representative's decision dated June 15, 2009, reference 02, which held that no disqualification would be imposed regarding Diandra Clark's separation from employment. After due notice was issued, a hearing was held by telephone on July 2, 2009. The employer participated by Ted Vaughn, Human Resources Manager. Ms. Clark was on the line at the start of the hearing but became disconnected. The administrative law judge attempted to reconnect her but received voice mail. The hearing record closed at 3:12 p.m. Ms. Clark did not contact the Appeals Bureau until approximately 3:26 p.m. because she could not get a signal on her cell phone. Because it was her responsibility to be in an area where she could use the phone to participate in the hearing, the administrative law judge declined to reopen the hearing record.

ISSUE:

At issue in this matter is whether Ms. Clark was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Clark was employed by Trinity from March 17 until November 1, 2008 as a part-time food service worker. She worked approximately 16 hours each week. She voluntarily quit because she could not handle the stress of working and attending school full time. She signed the exit interview, which indicated she was leaving because of stress. She did not cite any work-related problems as a contributing factor in her decision to quit. Continued work would have been available if Ms. Clark had not quit.

Ms. Clark filed a claim for job insurance benefits effective May 10, 2009. She has received a total of \$1,080.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The term "good cause attributable to the employer" generally refers to some matter over which the employer has control. Ms. Clark quit because she was experiencing too much stress as a result of trying to both work and attend school. This was not a matter within the control of Trinity. The evidence of record does not establish any good cause attributable to the employer for Ms. Clark's quit. As such, her separation was a disqualifying event.

Ms. Clark has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

Ms. Clark has had other work since leaving Trinity and may have requalified for benefits. It is her responsibility to provide proof of subsequent wages so that Workforce Development can determine whether she has requalified for benefits. Whether she has requalified for benefits may affect the overpayment determination.

DECISION:

The representative's decision dated June 15, 2009, reference 02, is hereby reversed. Ms. Clark voluntarily quit her employment with Trinity for no good cause attributable to the employer. Benefits are denied until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Ms. Clark will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw