

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNMARIE SAMOJEDNY
Claimant

APPEAL NO: 20A-UI-04373-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NUWAY-K&H COOPERATIVE
Employer

OC: 04/05/20
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 13, 2020, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on June 8, 2020. The claimant participated in the hearing. Emily Boelke, Vice-President of Human Resources, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time sales associate for Nuway K&H Cooperative convenience store from April 18, 2016 to October 31, 2019. She voluntarily left her employment due to a dissatisfaction with the work environment.

The claimant had a conflict with Manager Leanne Smith whom she stated yelled at her in front of customers and co-workers and showed favoritism. The claimant sent several text messages and emails to District Manager Jason Floy but did not see a change in Ms. Smith's behavior.

On September 1, 2018, Vice-President of Human Resources Emily Boelke started working for the employer. In late 2018, the claimant spoke to Ms. Boelke about Ms. Smith and Ms. Boelke talked to Mr. Floy and directed him to tell Ms. Smith she needed to be more professional. The claimant was unaware of their conversation and did not see an improvement in Ms. Smith's behavior. On January 28, 2019, the claimant's daughter sent an email to Ms. Boelke about the situation. Ms. Smith retired in late February/early March 2019. After Ms. Smith left the claimant had a conflict with another employee whom she felt talked down to her and customers.

In August 2019, the claimant's daughter accepted a job in North Carolina and the claimant planned to relocate to North Carolina.

On October 13, 2020, the claimant went on medical leave due to stress from her job. She was given anxiety medication and told she could return to work November 13, 2020. The claimant decided she was not happy working for the employer and sent Ms. Boelke an email stating she would not be returning November 13, 2020. Ms. Boelke responded and asked why she was leaving and the claimant said it was due to some non-serious medical issues, she was going to be moving to North Carolina, and the issues she had in the store and with Ms. Smith. The claimant's resignation notice was effective immediately.

Despite being denied benefits at the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of the claimants while their appeals were pending due to the backlog in appeals caused by the recent COVID 19 outbreak. The claimant was one of the individuals whose funds were released pending appeal. The administrative record shows the claimant filed for and received a total of \$695.00 in unemployment insurance benefits for the five weeks ending May 9, 2020. She has received Federal Pandemic Unemployment Compensation in the amount of \$3,000.00 for the five weeks ending May 12, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

When an employee quits work because she is dissatisfied with the work environment or has a personality conflict with her supervisor, her leaving is without good cause attributable to the employer. Ms. Smith retired eight months before the claimant resigned her position. She then had a conflict with a co-worker. Because Ms. Smith left months before the claimant's separation from employment and the claimant's conflict with her co-worker was not of such a serious

nature, the claimant has not established that her leaving was for intolerable or detrimental working conditions.

The second issue that the claimant addresses for her resignation is her medical condition.

An individual who voluntarily leaves their employment due to an alleged work-related illness or injury must first give notice to the employer of the anticipated reasons for quitting in order to give the employer an opportunity to remedy the situation or offer an accommodation. *Suluki v. Employment Appeal Board*, 503 N.W.2d 402 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. *Polley v. Gopher Bearing Company*, 478 N.W.2d 775 (Minn. App. 1991).

Inasmuch as the claimant did not give the employer an opportunity to resolve her complaints with the second co-worker prior to leaving employment, the separation was without good cause attributable to the employer. The claimant's physician did not tell her she needed to resign her position with the employer. She was given medication for anxiety and released to return to work November 13, 2019.

Under these circumstances, the administrative law judge must conclude the claimant has not established that her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

Because benefits are denied, the issues of overpayment of benefits and overpayment of Federal Pandemic Compensation benefits must be addressed.

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

- a. 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.

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$695.00 for the five weeks ending May 9, 2020, pursuant to Iowa Code section 96.3(7) as the disqualification decision that created the overpayment decision is affirmed.

The final issue is whether the claimant is overpaid Federal Pandemic Unemployment Compensation. The administrative law judge finds that she is overpaid those benefits.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

- (1) Federal pandemic unemployment compensation.—Any agreement under this section shall provide that the State agency of the state will make payments of regular compensation to individuals in amounts and to the extent that they would be

determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

- (A) The amount determined under the State law (before the application of this paragraph), plus
- (B) An additional amount of \$600.00 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

- (2) Repayment.—In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is disqualified from receiving regular unemployment insurance benefits. Accordingly, this also disqualifies the claimant from receiving Federal Pandemic Unemployment Compensation. In addition to the regular unemployment insurance benefits the claimant received, she also received an additional \$3,000.00 in Federal Pandemic Unemployment Compensation benefits for the five weeks ending May 12, 2020. The claimant is required to repay those benefits as well.

DECISION:

The May 13, 2020, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant has received benefits but was not eligible for those benefits. The claimant is overpaid benefits in the amount of \$695.00 for the five weeks ending May 9, 2020. The claimant is overpaid federal Pandemic Unemployment Compensation of \$3,000.00 for the five weeks ending May 12, 2020.



Julie Elder
Administrative Law Judge

June 12, 2020
Decision Dated and Mailed

je/sam