

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRENDA L CROUCH**

Claimant

**APPEAL NO. 09A-UI-11763-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERICAN HOME SHIELD CORP**

Employer

**Original Claim: 07/12/09  
Claimant: Respondent (2-R)**

Iowa Code section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 7, 2009, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on August 31, 2009. Claimant Brenda Crouch participated. Craig Cree of TALX UC eXpress represented the employer and presented testimony through Amy Platt, Human Resources Generalist, and Karen Janning, Supervisor of Customer Relations.

**ISSUE:**

Whether Ms. Crouch's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Brenda Crouch was employed by American Home Shield Corporation on a full-time basis from May 2008 until June 8, 2009, when she voluntarily quit. Ms. Crouch worked at the employer's facility in Carroll. Until the end of May 2009, Ms. Crouch worked in the employer's customer relations department in the homeowner division. In May 2009, the employer transferred the customer relations department, homeowner division work to Tennessee.

The Carroll employees were given the opportunity to transfer into different positions at the Carroll facility. Many transferred into the employer's service department. Ms. Crouch's daughter already worked in the service department.

The employer notified Ms. Crouch that she could temporarily transfer into the service department, but that due to the employer's nepotism policy, Ms. Crouch or her daughter would have to transfer out of the service department by the end of the year.

The employer also told Ms. Crouch that the employer had a floating Account Executive Assistant position open in the customer relations department. The position would actually be a step up from the work Ms. Crouch had previously performed. The work would be somewhat similar to the work Ms. Crouch had previously performed, but would involve working closely with Account Executives working in the field and would involve services to many different

geographical areas, rather than services to a limited geographical area. Based on Ms. Crouch's experience performing somewhat similar work, the employer did not provide the formal training program it might have provided a brand new employee. Ms. Crouch shadowed other employees for a week or more to get a feel for the position and then accepted a transfer into the Account Executive Assistant position.

A week into the new position, Ms. Crouch decided the workload was more than she expected and required skills she was not sure she possessed. Ms. Crouch did not ask for additional training or request a different position. The employer was still willing to transfer Ms. Crouch into a service department position, where she could stay until the end of the year. On June 8, Ms. Crouch notified the employer she was quitting the employment immediately.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

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 requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Where an employee voluntarily quits because the type of work was misrepresented to the employee at the time of acceptance of the work assignment, the quit is deemed for good cause attributable to the employer. See 871 IAC 24.26(23). This is the administrative code provision that the Workforce Development representative relied upon in allowing benefits. However, the weight of the evidence does not establish that the employer misrepresented the work assignment. The evidence indicates instead that Ms. Crouch had some familiarity with the work based on her months of employment as a customer service representative. The evidence indicates that the employer provided Ms. Crouch with a reasonable amount of training and a reasonable period of job shadowing before Ms. Crouch accepted the new position. Contrary to Ms. Crouch's assertion, the evidence indicates that the Account Executive Assistant position was not presented to Ms. Crouch as her only alternative. The evidence indicates that Ms. Crouch simply did not like the mix of new duties once she had started in the new position and decided for personal reasons to end the employment.

Ms. Crouch voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Crouch is disqualified for benefits until 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 employer's account shall not be charged for benefits paid to Ms. Crouch.

Iowa Code section 96.3(7) provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. The overpayment recovery law was updated in 2008. See Iowa Code section 96.3(7)(b). Under the revised law, a claimant will not be required to repay an overpayment of benefits if all of the following factors are met. First, the

prior award of benefits must have been made in connection with a decision regarding the claimant's separation from a particular employment. Second, the claimant must not have engaged in fraud or willful misrepresentation to obtain the benefits or in connection with the Agency's initial decision to award benefits. Third, the employer must not have participated at the initial fact-finding proceeding that resulted in the initial decision to award benefits. If Workforce Development determines there has been an overpayment of benefits, the employer will not be charged for the benefits, regardless of whether the claimant is required to repay the benefits.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received would constitute an overpayment. Accordingly, the administrative law judge will remand the matter to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

**DECISION:**

The Agency representative's August 7, 2009, reference 01, decision is reversed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until 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 employer's account shall not be charged.

This matter is remanded to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw