

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRISHA L SMITH
Claimant

APPEAL NO. 07A-UI-05283-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SYSTEMS UNLIMITED INC
Employer

**OC: 04/29/07 R: 03
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer filed an appeal from a representative's decision dated May 14, 2007, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice was issued, a telephone conference hearing was held on June 11, 2007. The claimant participated. The employer participated by Kari Wilken and Lindsay Fox.

ISSUE:

The issue is whether the claimant voluntarily quit for reasons attributable to the employer and whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time counselor for Systems Unlimited Inc from April 10, 2006 until November 14, 2006 when she voluntarily quit employment. The claimant was paid by the hour and her immediate supervisor was Lindsay Fox.

Ms. Smith left her employment after providing two weeks' advance notice in writing, however, the claimant stated no reason in her resignation. Prior to leaving, the claimant did not complain to company management of any dissatisfaction with her hours, work, or the manner in which she was being supervised by her immediate supervisor, Lindsay Fox. Employees are guaranteed no minimum number of hours as part-time workers. The employer has a policy of allowing workers to go up the chain of command to complain about dissatisfaction with supervisors; no complaints were received by company management by Ms. Smith at or before the time that she left employment.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes based upon the evidence in the record that the claimant voluntarily quit employment for reasons that were not attributable to the employer. Ms. Smith had stated in the past that she did not like her job and that she desired to find employment that paid more per hour. Prior to leaving employment and at the time of employment the claimant did not indicate to company management that she was leaving due to dissatisfaction with her supervisor or any other reason related directly to her employment. The evidence establishes that the organization has a policy of allowing employees to go up the chain of command if they are dissatisfied with the actions of their immediate supervisor; Ms. Smith did not do so.

An implicit requirement in establishing that an individual left employment for reasons that were attributable to the employer is the requirement that the employee inform the employer of areas of dissatisfaction, allowing the employer sufficient time to remedy the areas of dissatisfaction so as to allow the worker to continue in employment. In the absence of providing notification of areas of dissatisfaction to the management, an employer is unable to make any changes. The evidence in this case establishes that Ms. Smith did not bring her dissatisfactions to upper management and the employer was thus precluded from making any changes that may have allowed the claimant to continue employment.

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.

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.

For the reasons stated herein the administrative law judge finds the claimant left work under disqualifying conditions.

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.

Claimants who receive benefits to which they are not entitled are required to repay those benefits under the provision of Iowa law. Ms. Smith was overpaid unemployment insurance benefits in the amount of \$985.00.

DECISION:

The representative's decision dated May 14, 2007, reference 01, is hereby reversed. The claimant voluntarily left employment for reasons that were not 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 job insurance benefit amount, providing she meets all other eligibility requirements of the law. The claimant is overpaid benefits in the amount of \$985.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

tpn/pjs