

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RACHAEL L STUMPF
Claimant

APPEAL NO. 10A-UI-06838-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARKETLINK INC
Employer

OC: 04/11/10
Claimant: Respondent (2-R)

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

STATEMENT OF THE CASE:

Marketlink, Inc. filed an appeal from a representative's decision dated May 3, 2010, reference 01, which held that no disqualification would be imposed regarding Rachael Stumpf's separation from employment. After due notice was issued, a hearing was held by telephone on July 1, 2010. Ms. Stumpf participated personally. The employer participated by Amy Potratz, Human Resources Manager; Dave Stewart, Supervisor; Kelly Woods, Center Manager; and Riley Allen, Supervisor.

ISSUE:

At issue in this matter is whether Ms. Stumpf 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. Stumpf began working for Marketlink, Inc. on September 8, 2009. She worked full time as a telephone sales representative. She quit on April 9, 2010 because of the unprofessional conduct of her center manager during a staff meeting.

Approximately 28 employees were present for the meeting on April 9. The meeting was being held because the sales representatives were making more customer contacts per hour than permitted by the employer's client. During the meeting, the center manager, Kelly Woods, referred to the group as "shitty workers" and said they should be thrown out on their "lazy asses." She also indicated that, if it were up to her, she would stop payment on their paychecks. Approximately one hour after the meeting, Ms. Stumpf went to her supervisor to complain. He told her to "suck it up" and stop being a "big baby." As a result of the events of April 9, Ms. Stumpf quit. She did not take her concerns to human resources or to anyone over the center manager.

Ms. Stumpf filed a claim for job insurance benefits effective April 11, 2010. She has received a total of \$1,912.00 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). Ms. Stumpf quit because of the conduct of Kelly Woods on April 9. The administrative law judge does not doubt that Ms. Woods was less than professional in letting the employees know she was unhappy with their performance, especially since it might impact whether a customer remained with the company. The question is whether the conduct justified Ms. Stumpf quitting without first giving the employer an opportunity to address the problem.

This would definitely be a different case if Ms. Woods had berated only Ms. Stumpf in front of her peers during the meeting. However, her comments were directed to all 28 employees present for the meeting. Ms. Stumpf could have addressed her concerns with the employer so that Ms. Woods would not act in that manner in the future. She had not had any problems with Ms. Woods acting in a similar fashion on prior occasions. Ms. Woods' conduct was not so detrimental or intolerable that Ms. Stumpf was justified in quitting without first putting the employer on notice that she was unhappy with the conduct and would quit if it continued. For the above reasons, it is concluded that the separation was not for good cause attributable to the employer. As such, benefits are denied.

Ms. Stumpf has received job insurance 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.

DECISION:

The representative's decision dated May 3, 2010, reference 01, is hereby reversed. Ms. Stumpf quit her employment with Marketlink, Inc. 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. Stumpf will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs