

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HEATHER M GODSEY**  
Claimant

**APPEAL NO. 10A-UI-09936-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ROSS HOLDINGS LLC**  
Employer

**OC: 08/24/08**  
**Claimant: Respondent (2R)**

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Benefit Overpayment

**STATEMENT OF THE CASE:**

Employer filed a timely appeal from a representative's decision dated July 8, 2010, reference 06, which held the claimant eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was held on August 30, 2010. The claimant participated personally. The employer participated by Diana Roberts, Corporate Office Manager.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record, finds: Heather Godsey was employed by Ross Marketing from October 12, 2009 until February 18, 2010 when she voluntarily left employment. Ms. Godsey worked as a part-time tele-sales representative and was paid by the hour.

Ms. Godsey left her employment on February 18, 2010, completing an exit questionnaire indicating that she was voluntarily leaving for family reasons. Prior to leaving the claimant had informed her supervisors that she was leaving in order to be a "stay at home mom" as her husband had found a new job. Prior to leaving employment the claimant did not complain to the company's corporate office that her supervisor was acting inappropriately or violating company policy by using illegal substances at the workplace. Under company policy employees are able to take concerns about supervisor's conduct up the chain of command. All employees are aware of the company corporate offices as they routinely provide that number during sales calls. Prior to leaving employment the claimant did not allege that she was leaving because of the conduct of her supervisor.

## REASONING AND CONCLUSIONS OF LAW:

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

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.

An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An individual 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).

Claimants are not required to give notice of their intention to quit due to intolerable, detrimental or unsafe working conditions if the employer had or should have had reasonable knowledge of the condition. Hy-Vee Inc. v. EAB, 710 N.W.2d 1 (Iowa 2005).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer under the provisions of 871 IAC 24.26(4). The test as to whether an individual has good cause attributable to an employer for leaving employment is not a subjective test as to whether the employee themselves feel they have good cause but an objective test as to whether a reasonable person would have quit under similar circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988).

The administrative law judge concludes based upon the evidence in the record that the claimant's primary reason for leaving employment was her desire to remain home due to the medical condition of her daughter. Inasmuch as the claimant did not give the employer an opportunity to resolve her complaints prior to leaving employment the separation was without good cause attributable to the employer. Benefits are denied.

Iowa Code section 96.3-7, as amended in 2008, provides:

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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

**DECISION:**

The representative's decision dated July 8, 2010, reference 06, is reversed. The claimant quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount and meets all other eligibility requirements of the law. The issue of whether the claimant must repay the unemployment insurance benefits is remanded to the UIS Division for determination.

---

Terence P. Nice  
Administrative Law Judge

---

Decision Dated and Mailed

css/css