

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROL A ATKINSON
Claimant

APPEAL NO. 11A- EUCU-00648-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACE AMERICAN INSURANCE COMPANY
Employer

OC: 05/22/11
Claimant: Respondent (2-R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated July 28, 2011, reference 02, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on September 8, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. David Williams participated in the hearing on behalf of the employer with a witness, Ray Galindo.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer as a sales representative for the employer from December 6, 2010, to December 20, 2010. She was paid a weekly salary of \$500.00 per week plus commissions during her training period.

The claimant decided that a sales position with the company did not suit her. As a result, on December 20, 2010, she informed her supervisor that she was quitting.

The claimant filed for and received unemployment insurance benefits after her separation from employment on December 20, 2010.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant quit employment because she disliked working in the sales representative job. This was not attributable to the employer. The claimant is disqualified from receiving benefits effective December 20, 2010.

The unemployment insurance law requires benefits to 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. But the overpayment will not be recovered when an initial determination to award benefits is reversed on appeal on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

The claimant also worked and earned wages from December 6, 2010, to December 20, 2010, but did not report any wages on her weekly claims. The issue of whether the claimant failed to report wages and was overpaid benefits is also remanded to the Agency.

DECISION:

The unemployment insurance decision dated July 28, 2011, reference 02, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency. The issue of whether the claimant failed to report wages and was overpaid benefits is also remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

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