

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LATANYA A CAMPBEL
Claimant

APPEAL NO. 12A-UI-14603-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THOMAS L CARDELLA & ASSOCIATES INC
Employer

OC: 10/28/12
Claimant: Respondent (2-R)

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

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated November 30, 2012, reference 02, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on January 11, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Barb Toney participated in the hearing on behalf of the employer with a witness, Dylan Hutton.

ISSUES:

Did the claimant voluntarily quit employment without good cause attributable to the employer?
Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

The claimant worked as a telephone service representative for the employer on September 19, 2012. She never reported to work or contacted the employer again after September 19. There was full-time work available for the claimant if she had continued to work. No one in management told the claimant that she was discharged or laid off.

The claimant filed for and received a total of \$1,089.46 in unemployment insurance benefits for the weeks between October 28, 2012, and January 5, 2013.

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 voluntarily quit employment by failing to return to work after her first day on the job. There is no evidence that the claimant quit for good cause attributable to the employer.

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.

DECISION:

The unemployment insurance decision dated November 30, 2012, 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.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs