

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEAH N COGLEY
Claimant

APPEAL NO. 16A-UI-06512-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MOSAIC
Employer

OC: 05/22/16
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

Mosaic (employer) appealed a representative's June 7, 2016 (reference 01) decision that concluded Ashleah Cogley (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 28, 2016. The claimant participated personally. The employer was represented by Jacqueline Jones, Hearings Representative, and participated by Jennifer Olson, Human Resources Generalist; Teresa Tekolste, State Human Resources Manager; and Alisha Weber, Unemployment Consultant. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 5, 2014, as a full-time direct support associate. The claimant signed for receipt of the employer's handbook on October 23, 2014. The handbook states that an employee may have three days bereavement leave when a member of her family dies. The claimant was supposed to follow the chain of command. That chain of command was her house manager, the program coordinator, Sarah, the human resources generalist, and the head of the company. The claimant regularly worked 65 hours per week to fill in for other employees and because the employer was understaffed.

On April 9, 2016, the claimant's brother, niece, and nephew were in a serious car accident. The claimant asked her house manager if she could have April 10, 2016, off due to the accident. The claimant had 160 hours of paid time off. The house manager told her she could not unless she could find someone to work for her. The claimant could only find someone to work three hours for her.

On April 21, 2016, the claimant's grandmother died. The employer gave the claimant three days bereavement leave and told her to return to work on April 25, 2016. The claimant asked if she could take her three days of bereavement leave on different days because the funeral was on April 25, 2016. The house manager told the claimant the three days had to be consecutive. She could not have April 25, 2016, off unless she found someone to work for her. The handbook did not indicate the days had to be consecutive.

The claimant asked the program coordinator for help. She sent her back to the house manager who told her the same thing. The claimant sought help from the human resource generalist's supervisor but her call was not returned. The claimant could not find anyone to work her shift on April 25, 2016. On April 24, 2016, the claimant told the employer she was resigning.

The claimant filed for unemployment insurance benefits with an effective date of May 22, 2016. The employer's representative had more than one fact-finding interview scheduled and did not personally participate in the fact-finding interview on June 6, 2016. It provided documents for the fact finder. It did not provide the name and telephone number of a person with firsthand knowledge of the events leading to the separation as a rebuttal witness for the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code § 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 Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer three times of her problem. She left a message one additional time. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's June 7, 2016 (reference 01) decision is affirmed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/can