

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DWANN D JONES**  
Claimant

**APPEAL NO: 13A-UI-03029-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ROBERT HALF CORPORATION**  
Employer

**OC: 02/03/13**

**Claimant: Respondent (2/R)**

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Robert Half Corporation (employer) appealed a representative's March 6, 2013 decision (reference 01) that concluded Dwann D. Jones (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 11, 2013. The claimant participated in the hearing. Stacy Coleman appeared on the employer's behalf and presented testimony from one other witness, Tyler Miller. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**OUTCOME:**

Reversed. Benefits denied.

**FINDINGS OF FACT:**

The employer operates a temporary employment firm. The claimant began his first and to date only assignment with the employer's temporary employment firm on July 16, 2012. He worked full time as a loan documentation specialist at the employer's Clive, Iowa business client on what was to be an 18-month assignment. His last day on the assignment was January 11, 2013. The assignment ended because the claimant had provided his notice of resignation on January 4, to be effective January 18. The assignment ended earlier than January 18 because on January 14 the claimant informed the employer that he had lost his transportation for the week. While the claimant was willing to extend his notice period to be through January 25 rather than January 18, the employer declined to allow the claimant to modify his resignation, and allowed the claimant's employment then to end on January 18 by virtue of his original voluntary quit.

The reason for the quit was that the claimant was unhappy with the new manager he had on the assignment as of December. That new manager had been verbally reprimanding the claimant for "too much talking." The claimant felt that he was being discriminated against because he felt he was being singled out and because the manager did not even inquire as to whether the subject of the "talking" was work-related or personal. In fact, other staff persons had also been addressed because of the business client's concern that there was too much talking in general going on in the department.

On January 4, Miller, the employer's staffing manager, had spoken to the claimant by phone. He had advised the claimant that he was being given a final warning, which the claimant understood was only on the issue of "too much talking," but which Miller asserts also included the issue of attendance. When the claimant understood that his job was in some jeopardy if there were further problems, he determined to voluntarily quit and to seek some other employment. He had not found other employment at that time.

#### **REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit her employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The employer was not required to allow the claimant to extend the date of his originally announced voluntarily quit. 871 IAC 24.25(37). The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), 22). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable, or that there was actual discrimination. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Rather, his complaints do not surpass the ordinary tribulations of the workplace. The claimant has not satisfied his burden. Benefits are denied.

The unemployment insurance law provides that benefits must 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. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits 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 determining the amount of the overpayment and whether the claimant is eligible for a waiver of overpayment under Iowa Code § 96.3-7-b is remanded the Claims Section.

**DECISION:**

The representative's March 6, 2013 decision (reference 01) is reversed. The claimant voluntarily left his employment without good cause attributable to the employer. As of January 18, 2013, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The matter is **REMANDED** to the Claims Section for investigation and determination of the overpayment issue.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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