

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHELLE O'NEAL**  
Claimant

**APPEAL NO. 08A-UI-10713-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TRENDS ENTERPRISES LLC**  
Employer

**OC: 10-12-08 R: 02**  
**Claimant: Respondent (2/R)**

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

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the November 6, 2008, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on December 2, 2008. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Prajakta Pradhan, Salon Owner; Amit Pradhan, Investor; and Belinda Scott, Salon Manager, participated in the hearing on behalf of the employer. Employer's Exhibits One and Two were admitted into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time assistant manager for Fantastic Sam's from June 19, 2007 to October 1, 2008. On September 28, 2008, the claimant was scheduled to open the store because the manager was on vacation. She did not call the employer or show up for work, leaving a stylist standing outside until she finally left and went home to call the employer who went and opened the store approximately one and one-half hours late. She did leave a voice mail for the manager who was out of town and unable to open the store herself but did not answer when the store manager attempted to call her back. The claimant called in sick September 29 and 30, 2008. On October 1, 2008, the claimant arrived late for her scheduled shift and Manager Belinda Scott gave her a written warning, suspended her for three days and deducted \$1.00 from the pay raise she received three weeks earlier (Employer's Exhibit One). The claimant read the warning, said she was not signing it, walked out of the office, said she quit and gathered her belongings and left.

The claimant has not made a weekly claim or received unemployment insurance benefits since her separation from this employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant left following a reprimand and reduction in pay. She did not participate in the hearing to state her reasons for leaving. When an employer discharges an employee for misconduct, the employee is disqualified from receiving unemployment benefits. It is consistent with the statutory framework to extend that analysis to hold that in situations in which an employer demotes an employee for misconduct warranting discharge, an employee who leaves employment should be disqualified from receiving benefits. Goodwin v. BPS Guard Services, Inc., 524 N.W.2d 28 (Minnesota App. 1994). There is sufficient evidence to establish the claimant's demotion was due to her failure to perform her duties as an assistant manager, which could have resulted in her discharge. Under these circumstances the administrative law judge cannot conclude that the claimant's leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits are denied.

**DECISION:**

The November 6, 2008, reference 01, decision is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/css