

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA M COOK

Claimant

APPEAL NO: 07A-UI-07355-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CONNIE'S CLEANING SERVICE

Employer

**OC: 03/11/07 R: 03
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Connie's Cleaning Service (employer) appealed a representative's July 23, 2007 decision (reference 02) that concluded Angela M. Cook (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 15, 2007. The claimant participated in the hearing with her witnesses, Aurora Cook and Justine Cook. Connie Copper-Render, the owner, Jeri Trujeque, Robyn Smith, Deb Petre and Pauline Copper appeared on the employer's behalf. 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.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in 2004. Prior to her employment separation, the claimant worked about 25 hours a week cleaning homes for the employer. Connie was the claimant's supervisor. Even though there had been on-going problems with the claimant and Trujeque since Trujeque began working on February 26, 2006, the employer usually did not schedule the two women to work together. Other employees did not get along with the claimant either.

The claimant knew some employees did not like her, which created an unpleasant working environment. As a result of complaints from co-workers and the claimant's display of a negative work attitude when she wrote a letter of support for another employee who was going through

the process of trying to collect unemployment insurance benefits, on June 29, Connie told the claimant in the presence of the other employees that she was no longer responsible for training any employees. The claimant was upset by Connie's remarks and concluded the employer was going to try and end her employment.

While unloading the supplies in the van, the claimant made a sarcastic comment that it was another great day. The claimant then told Trujeque that she would be next and she should watch out. When Trujeque asked the claimant what she meant, the claimant just said that she (Trujeque) would find out. The two then engaged in a verbal confrontation. During the verbal confrontation, Trujeque told the claimant that no one liked her and no one wanted to work with her. The claimant then approached Trujeque so she was inches from Trujeque. The two women were extremely close to one another, but neither person backed down and they continued to yell at the other person. The two women were so close their bodies could have been touching. The two women continued to yell in this position for two minutes. The claimant stumbled or tripped and accused Trujeque of shoving her shoulder. The claimant immediately ran into the home where Connie and Pauline were and shouted that she had just been assaulted. Both the claimant and Trujeque were extremely upset, frustrated and angry with the other person.

Trujeque came after the claimant, but the employer locked the door so Trujeque could not come inside. The employer told both women to calm down. It took a while for them to calm down. Although the claimant wanted to immediately call the police to report that Trujeque assaulted, the employer asked her to wait because the owner had not seen anything and wanted to get homes cleaned. The claimant renewed her request to leave work around noon because she was close to the police station. After the employer told the claimant that if she left, the employer would write her up for walking off the job, the claimant completed her shift that day. The claimant and Trujeque worked in the same homes but did not have any further confrontations.

After work, the claimant filed a complaint with the police department that Trujeque assaulted her. The claimant's husband would not allow the claimant to return to work. The claimant did not tell the employer she was not returning to work. If the incident between the claimant and Trujeque had not occurred, the claimant would have returned to work after her scheduled vacation. Trujeque was not charged with assault. Since the claimant had a scheduled vacation, July 2 through 9, the employer was surprised upon receiving notice that the claimant had reopened her claim for benefits the week of July 1, 2007.

The claimant filed claims for the weeks ending July 7 and 14, 2007. She received \$198.00 in benefits for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment for reasons that do not qualify her to receive unemployment insurance benefits. Iowa Code section 96.5-1. The claimant intended to quit her employment after work on June 29, 2007. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive unemployment insurance benefits. Iowa Code section 96.6-2.

The law presumes a claimant voluntarily quits without good cause when she leaves after being reprimanded or because she did not like the work environment. 871 IAC 24.25(28) and (21). The facts establish the claimant was upset after the employer reprimanded her in front of other employees the morning of June 29. The claimant took out her frustration on Trujeque who did not get along with the claimant. The claimant's comments to Trujeque started the verbal

confrontation between the two of them. Trujeque added to the drama by telling the claimant how much everyone disliked her. Unfortunately, the employer was inside a home and did not see or hear the verbal confrontation. While both employees yelled at one another, the claimant approached Trujeque so they stood close enough so their bodies could touch the other person. While in this position the two yelled at one another for about two minutes. The standoff between the two ended when the claimant ran into the home yelling that Trujeque assaulted her by shoving the claimant's shoulder.

Based on the anger both employees presented to the employer, the employer's decision to get the two women to calm down was not unreasonable. Since the employer has a business to run and she needed both employees to get the work done, the employer made a business decision by telling the claimant she did not want her to leave to report the incident to the police at that time. No one was injured and after they calmed down the two worked together in the same homes. The employer concluded the claimant could just as easily report the incident after work hours, which she did. Since this was an isolated incident, the employer tried to schedule the two women so they did not work together and the claimant instigated the confrontation, the facts do not establish that the claimant quit because of intolerable working conditions. 871 IAC 24.26(4).

Instead, the facts show the claimant quit after she had been reprimanded and did not like working with Trujeque. The claimant established personal reasons for quitting. These reasons do not qualify her to receive unemployment insurance benefits. As of July 1, 2007, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code section 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending July 7 and 14, 2007. The claimant has been overpaid \$396.00 in benefits she received for these weeks.

DECISION:

The representative's July 23, 2007 decision (reference 02) is reversed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 1, 2007. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The claimant is not legally entitled to receive benefits for the weeks ending July 7 and 14, 2007. The claimant has been overpaid and must repay a total of \$396.00 in benefits she received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs