

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RAUNE PALMER**  
Claimant

**APPEAL NO. 13A-UI-00650-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WESTAR FOODS INC**  
Employer

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

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Westar Foods Inc. filed a timely appeal from a representative's decision dated January 16, 2013, reference 06, which held the claimant eligible to receive unemployment insurance benefits. After due notice was provided, a telephone hearing was held on February 19, 2013. Although the claimant provided a telephone number for the hearing, she was not available at the telephone number provided. Two messages were left for the claimant. The employer participated by Mr. Jeff Oswald, Hearing Representative and witness, Mr. John Kelchen, District Manager.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record, finds: Ms. Raune Palmer was employed by Westar Foods, doing business as Hardees, from September 11, 2012 until November 13, 2012 when she quit her employment without notice. Ms. Palmer was employed as a full-time shift leader and was paid by the hour. Her immediate supervisors were Brian Oakleaf and Ruth Chapman.

On November 13, 2012 Ms. Palmer telephoned her supervisor, Ms. Chapman, and at that time indicated that she would not be returning to work if the company did not reschedule two hourly employees to shifts different than those worked by the claimant. Ms. Palmer was informed by her supervisor that as a "shift leader" it was her responsibility to run the work shift and to issue work directives to hourly employees under her supervision and that the claimant was expected to work her scheduled shift and to supervise the employees on duty.

Ms. Palmer previously contacted John Kelchen about an issue with two hourly employees indicating that one employee was using a cell phone and would not listen to the claimant's directives to stop and that the other employee refused to follow a directive to clean a bathroom area. Mr. Kelchen had specifically instructed Ms. Palmer that as a shift leader it was her duty to issue work-related directives, to counsel employees that they must follow directives and to send

them home if they failed to do so. Mr. Kelchen further indicated that if necessary he would intervene and take other action up to and including termination of the employees if necessary, but he expected Ms. Palmer to perform her duties as a shift leader in the interim.

After being hired Ms. Palmer had been given six weeks of shift leader training, had completed the training and the claimant had not indicated in any manner that the employees were disruptive, threatening or otherwise unmanageable except for their reluctance to follow her work directives. Work continued to be available to Ms. Palmer at the time that she left employment.

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

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left employment with good cause attributable to the employer. It does not.

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.

The evidence in this case establishes that Ms. Palmer left employment without advance notice on November 13, 2012 when the employer was unwilling to vary her shift leader job requirements to eliminate the requirement that she oversee hourly employees. The claimant had received full shift leader training from the company, was being paid as shift leader and the employer had a reasonable expectation that the claimant would make reasonable attempts to fulfill her duties in that job position. The claimant had previously contacted the district manager and had been given specific instructions on how to handle two employees who had not been willing to follow work directives given to her by Ms. Palmer. The claimant had not indicated in any manner that the employees were threatening or intimidating her but only that they were not following directives. Although the district manager was in support of Ms. Palmer's authority to warn and send the employees home if they were not compliant, the claimant instead chose to quit her job.

While the claimant's reasons for leaving may have been good cause reasons from her personal viewpoint, they were not good cause reasons attributable to the employer. Unemployment insurance benefits are withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

- a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

- b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall

be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

**DECISION:**

The adjudicator's determination dated January 16, 2013, reference 06, is reversed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, and is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to the UIS Division for determination.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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