

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAREY A BUTLER

Claimant

APPEAL NO. 09A-UI-03138-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLLAR GENERAL

Employer

OC: 02/01/09

Claimant: Respondent (2-R)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Dollar General filed an appeal from a representative's decision dated February 20, 2009, reference 01, which held that no disqualification would be imposed regarding Carey Butler's separation from employment. After due notice was issued, a hearing was held by telephone on March 24, 2009. Ms. Butler participated personally. The employer participated by Mike Williams, District Manager.

ISSUE:

At issue in this matter is whether Ms. Butler was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Butler was employed by Dollar General from March of 2005 until January 30, 2009. She was last employed full time as a store manager, a position she held for the last two and one-half years. She voluntarily quit because she did not like her evaluation.

On January 30, 2009, Mike Williams was conducting a performance evaluation with Ms. Butler. Two of the areas that he felt needed improvement were her leadership and communication skills. Mr. Williams also told her that other employees were continuing to complain that she was not working all of the hours required of her. Ms. Butler became upset that others were complaining about her and told Mr. Williams she was giving notice. He suggested they discuss the matter but she quit anyway. Continued work would have been available if she had not quit.

Ms. Butler filed a claim for job insurance benefits effective February 1, 2009. She has received a total of \$2,541.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

Ms. Butler voluntarily quit her employment. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Part of the reason Ms. Butler quit was the fact that Mr. Williams indicated she needed improvement in the areas of leadership and communications. If she did not like her evaluation or felt it was unjustified, she had recourse through the chain of command. Moreover, Mr. Williams invited her to remain and discuss issues on January 30 but she refused to do so.

Ms. Butler also quit because her coworkers were complaining that she was not working her required hours. If she was, in fact, working her required hours, her time and attendance reports would substantiate this fact. The employer had not taken any disciplinary action as a result of reports from others. Other employees certainly had the right to complain to the district manager if they felt they had reason to do so. It would be up to the district manager to determine if the complaints had merit. The fact that her subordinates were complaining did not constitute good cause attributable to the employer for quitting.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Ms. Butler quit without good cause attributable to the employer. Accordingly, benefits are denied. Ms. Butler has received benefits since filing her claim. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if Ms. Butler will be required to repay benefits already received.

DECISION:

The representative's decision dated February 20, 2009, reference 01, is hereby reversed. Ms. Butler quit her employment for no good cause attributable to the employer. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. This matter is remanded to Claims to determine the amount of any overpayment and whether Ms. Butler will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs