

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLENE R BOCKMAN

Claimant

APPEAL NO: 09A-UI-11063-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

POLARIS INDUSTRIES MANUF LLC

Employer

OC: 12/21/08

Claimant: Respondent (2R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from a representative's decision dated July 22, 2009, reference 01, which held the claimant eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 26, 2009. Ms. Bockman participated personally. The employer participated by Carolyn Tiftt, Human Resource Associate.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: Charlene Bockman was employed by Polaris Industries from August 16, 1999 until August 7, 2009 when she voluntarily quit employment to retire. Ms. Bockman had most recently worked on a part-time basis as a general assembler and was paid by the hour.

The claimant had been temporarily laid off work on June 14, 2009 but had been recalled to work on July 13, 2009. Ms. Bockman returned to work and resumed her duties. Ms. Bockman chose to take voluntary retirement on August 7, 2009, although work continued to be available to her with Polaris Industries.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily quit 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.

The evidence in the record establishes that Ms. Bockman had been temporarily laid off work on June 14, 2009 but had been recalled to work by Polaris Industries on July 13, 2009 and had returned and performed duties for the employer until August 7, 2009 when she chose to voluntarily leave employment to take retirement.

While the claimant's reasons for leaving were undoubtedly good from a personal viewpoint, they are 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 representative's decision dated July 22, 2009, reference 01, is reversed. The claimant voluntarily quit employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has earned ten times her weekly benefit amount in insured employment and is otherwise eligible. The issue of whether the claimant may

have received benefits which she is liable to repay is remanded to UIS Division for determination.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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