

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE A SUTTLES

Claimant

APPEAL NO. 12A-UI-12807-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES

Employer

OC: 09/16/12

Claimant: Respondent (2-R)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Care Initiatives, filed an appeal from a decision dated October 15, 2012, reference 01. The decision allowed benefits to the claimant, Julie Suttles. After due notice was issued a hearing was held by telephone conference call on November 20, 2012. The claimant participated on her own behalf. The employer participated by Administrator Kristin Kremmer, Dietary Services Manager Denise Thompson and was represented by TALX in the person of Toni Kerr.

ISSUE:

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

FINDINGS OF FACT:

Julie Suttles was employed by Care Initiatives from May 10, 2010 until August 24, 2012 as a full-time cook and dietary aide. Ms. Suttles became frustrated in the summer of 2012 when dietary policies were in a state of change. Dietary Services Manager Denise Thompson had received directions from the corporate office to stop the small portions for residents with diabetes and obesity. Doctors subsequently protested that such a policy interfered with residents' rights to chose how much to eat. The policy changed again.

Ms. Suttles felt Ms. Thompson was lying to her when in fact it was confusion brought about by changes from the corporate office and then doctors. Confusion and changes in policy do not constitute lying. The claimant was upset she had been slated for retraining in August but in fact she had been retrained in July when the initial change occurred about the small portions. She was not being retrained because of anything she did wrong but because the policy was changing.

She also felt she was being asked to do too much cleaning on the schedule and complained to Administrator Kristin Kremmer. The administrator spoke with Ms. Thompson about certain problems she had discovered and the matter was resolved. Ms. Suttles missed a dietary staff meeting where some of the issues were discussed and the resolutions announced so she was unaware the matter had been dealt with.

There was no specific incident on August 24, 2012, which precipitated the decision to resign. She had merely "thought it over" and realized she was "done."

Julie Suttles has received unemployment benefits since filing a claim with an effective date of September 16, 2012.

REASONING AND CONCLUSIONS OF LAW:

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 claimant quit because of a personality conflict with her supervisor. She assumed she was being lied to about the portion changes but this is not correct. Rather than attempt to resolve the situation through an available grievance procedure she simply quit. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

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.

The claimant has received unemployment benefits to which she is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

DECISION:

The representative's decision of October 15, 2012, reference 01, is reversed. Julie Suttles is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs