

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**Appeal Number: 06A-UI-04566-DT  
OC: 04/02/06 R: 03  
Claimant: Respondent (2)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**KATHY A BOSTON  
4665 SUTLIFF RD NE  
SOLON IA 52333-9045**

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**CITY CARTON COMPANY  
3 E BENTON ST  
IOWA CITY IA 52240**

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

City Carton Company (employer) appealed a representative's April 26, 2006 decision (reference 01) that concluded Kathy A. Boston (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 25, 2006. The claimant participated in the hearing and presented testimony from one other witness, Kyla Akers. Sarah Woods appeared on the employer's behalf and presented testimony from two other witnesses, Brian Holtz and Andy Ockenfels. During the hearing, Employer's Exhibits One and Two were entered into evidence. 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.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on October 17, 2003. She worked full time as an interim non-fiber marketing specialist in the employer's recycling business, a position to which she had been formally appointed in June 2004 and in which she had worked on an interim basis since January 2004. Her last day of work was April 4, 2006. She called in sick on April 5, 2006, and on April 6, 2006 she came in and gave the employer her written resignation. Her stated reason for quitting was "due to my continual subjection to harassment" and a hostile work environment.

When the claimant began working in the position, the claimant had great latitude and discretion as to how she operated and communicated with clients who would purchase processed non-fiber recycled materials, for example, recycled plastic and metal ready for further processing into end products by client business. The claimant was initially under the supervision of a corporate vice president. However, in approximately May 2005, that person was removed from supervision over the marketing division, at least in part due to corporate concerns that the division activities were not being sufficiently coordinated and supervised. The claimant was not aware of that concern being a reason for the change in her management. On an interim basis, the claimant was under the supervision of the corporate president, who was at various times since May 2005 either Mr. Ockenfels or his brother. A new division manager position was created, and in October 2005 Mr. Holtz was moved into that position and became the claimant's supervisor.

Part of the employer's directive to Mr. Holtz was to be more aggressively and actively involved in coordination and accountability of the activities within the marketing division. Very quickly this led to conflicts between the claimant and Mr. Holtz; he began making direct client contacts with persons within the claimant's clients' organization, sometimes at a level above the contacts she worked with. Mr. Holtz felt that the claimant was reticent in providing specific information regarding her client accounts such as financial information and account activity. The claimant felt that Mr. Holtz was seeking to take over her work and that he was making her work more difficult by causing confusion within client organizations because of his going outside the established communication channels. Meetings were held involving the claimant, Mr. Holtz, Mr. Ockenfels, and others regarding these issues at least as early as mid-December 2005. The claimant was further frustrated because Mr. Holtz was reluctant to meet with her one on one or behind closed doors; this was because of an unrelated incident even prior to Mr. Holtz becoming the claimant's supervisor where Mr. Holtz misinterpreted an action by the claimant lifting her shirt in an attempt to cool off on a golf outing as intended to be sexually suggestive.

The claimant felt she was being marginalized on other occasions as well, such as a meeting of marketing staff where staff were discussing trade shows they wished to attend. When the claimant repeated what she had previously reported that there was a particular trade show that a client had requested she attend, Mr. Holtz indicated he did not need to hear it again; the claimant felt that he was abrupt and rude to her in how he responded. On a February 2006 trip to a trade show, Mr. Holtz made an arrangement for a significant client to be a sponsor at a golf outing, when the claimant had made the arrangements for that client to be the sponsor for the prior two years and had received significant praise for having procured this sponsorship in the past. After returning to Iowa from the trade show, the claimant did not come into work the next

day, although she did some work from home. She did not realize that this might be considered to be a problem, but was then given a reprimand. As a result of these concerns, the claimant made a sexual discrimination complaint against Mr. Holtz on February 21, 2006. The employer's human resources department interviewed various personnel and closed out the complaint as unfounded in early March 2006.

On or about March 23, 2006, Mr. Ockenfels sent an email to Mr. Holtz, copied to the claimant, directing Mr. Holtz to make a specific client contact that had previously been covered by the claimant. She asked to speak to Mr. Ockenfels, and while he agreed to meet with her, he declined to do so behind closed doors, and the claimant felt that his dismissal of her concerns was done so loudly as to cause her embarrassment in the office. She became so upset about this that she determined that she was going to become ill, and decided to go home early that day and take the next day off. She sent an email to that effect to Mr. Holtz and to Ms. Woods, the human resources director, and may have left a voice mail message also for Mr. Holtz; however, she did not call Mr. Holtz on his cell phone. In a memo distributed to the claimant and other marketing staff in December 2005, Mr. Holtz had specified that if anyone was going to be absent from work that they should contact him on his cell phone.

As a result of leaving and being absent without calling Mr. Holtz, the claimant was placed on a three-day suspension beginning March 27; the claimant further took off as personal days March 30 and March 31, and returned to work on April 3, 2006. Upon her return, she met with Mr. Holtz and Ms. Woods to cover the conditions of her return from suspension. At that time the claimant presented her request to be transferred to the employer's Cedar Rapids, Iowa office, stating as reason the "hostile political" atmosphere in the corporate office in Iowa City. The employer declined her request, indicating that the marketing position was a corporate function that needed to be coordinated out of the corporate office.

Also during this meeting Mr. Holtz gave the claimant a list of "job expectations and duties." The duties did not in substance vary significantly from the claimant's prior duties, but were more specifically spelled out and specified in several respects that certain detailed functions must be reported to or approved by Mr. Holtz, for example, that "all loads (set up by the claimant) must be pre-approved by Brian Holtz," that "all email correspondences must include Brian Holtz," and "a daily report of activities must be submitted to Brian Holtz." In discussion the employer also specified that the claimant was not to carry the company cell phone and credit card except as checked out to the claimant by Mr. Holtz for travel, which also was required to be pre-approved. While the employer indicated these conditions were not necessarily permanent, it declined to specify how long the conditions might be in place.

The claimant worked the rest of the day April 3 and all day April 4 with no further discussion or incident. However, she further believed that her job duties were being stripped away and became further upset. She then called in sick on April 5 and brought in her resignation on April 6, 2006.

The claimant established a claim for unemployment insurance benefits effective April 2, 2006. The claimant has received unemployment insurance benefits after the separation from employment in the amount of \$1,823.00.

## REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for 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.

871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The claimant did express her intent not to return to work with the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). The claimant has not provided sufficient objective evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant's conclusions were based on her personal subjective interpretations of incidents and conditions which are not independently clear and unquestionably intolerable or hostile, as compared to an employer's bona fide and reasonable attempt to regain direct control and coordination of a marketing function. The claimant has not satisfied her burden. Benefits are denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's April 26, 2006 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of April 6, 2006, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant is overpaid benefits in the amount of \$1,823.00.

ld/pjs