

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KARLA BROWN**  
Claimant

**APPEAL NO: 10A-UI-03013-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DOLLAR TREE STORES INC**  
Employer

**OC: 01-24-10**  
**Claimant: Respondent (2R)**

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

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the February 15, 2010, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 7, 2010. The claimant participated in the hearing with customer Rhonda Balliet. Carolyn Smith, Store Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left her employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time cashier for Dollar Tree Stores from September 4, 2008 to July 12, 2009. Her last day of work was July 8, 2009, and she was a no-call no-show for the next four consecutively scheduled workdays. The employer considered the claimant to have voluntarily quit as of July 12, 2009. The claimant contends she quit due to mistreatment by Store Manager Carolyn Smith. The claimant was on parole and felt Ms. Smith used that situation against her although Ms. Smith fought to have the company hire the claimant despite the fact she was on parole. She was nervous and often felt sick to her stomach before going to work because she felt Ms. Smith treated her differently than other employees. The claimant contends Ms. Smith would “jump” on her and “scream” at her in front of others but she was often nervous and had trouble following directives. Ms. Smith is a very direct person and her voice is somewhat loud normally. The employer has an open door policy and the claimant never mentioned any issues to the employer prior to her separation.

The claimant has claimed and received unemployment insurance benefits since her separation from this employer.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his 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.

871 IAC 24.25(4), (23) provides:

Voluntary quit without good cause. 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 employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

The claimant was deemed to have voluntarily quit July 12, 2009, after four days of no-call no-show. She never mentioned any problems to the employer but contends she quit due to mistreatment by the store manager. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). The evidence does not support an intolerable work environment but it does confirm the claimant was very sensitive towards the store manager.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2. She has not satisfied that burden. Consequently, benefits must be denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code section 96.3-7. In this case, the claimant has received benefits but was not eligible for those benefits. The matter of

determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

**DECISION:**

The February 15, 2010, reference 01, decision is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she 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 has received benefits but was not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs