

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICHOLE CLARK**  
Claimant

**APPEAL NO: 07A-UI-10220-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A & J ENTERPRISES**  
Employer

**OC: 10/14/07 R: 03**  
**Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Overpayment

**STATEMENT OF THE CASE:**

A & J Enterprises, Inc. (employer) appealed an unemployment insurance decision dated November 2, 2007, reference 01, which held that Nichole Clark (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 26, 2007. The claimant participated in the hearing. The employer participated through Casandra Byrd, District Manager and Tammy Baughn, General Manager. 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:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant began employment on June 23, 2006 as a crew member. She was promoted to a shift supervisor and continued in that capacity until she walked out on April 3, 2007. The claimant quit her employment due to a conflict between her and the owner. On April 3, 2007 there was a problem at the lunch rush and the claimant did not know what she was supposed to be doing so worked on something else. She later heard the owner talking about her. He said that she was not doing her job like she was supposed to and that if she wanted a black shirt, she needed to act like it. Only supervisors wear black shirts. The claimant confronted the owner and an argument ensued, after which she walked out.

The claimant testified at the hearing that the owner does not treat his employees fairly but was unable to provide any additional examples substantiating the allegation. She has subsequently attempted to get back her job with this employer.

The claimant filed a claim for unemployment insurance benefits effective November 2, 2007 and has received benefits after the separation from employment.

### **REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by walking off the job and quitting without notice. She quit due to a personality conflict with the owner. There is no evidence establishing the claimant quit due to an intolerable or detrimental working environment. Furthermore, the fact that the claimant is trying to go back to work for this employer would also negate that claim.

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 and 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 unemployment insurance decision dated November 2, 2007, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has 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 \$620.00.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs