

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELODY S DAWDY**  
Claimant

**APPEAL NO. 08A-UI-06103-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ZALES**  
Employer

**OC: 05/25/08 R: 01  
Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the June 19, 2008, reference 01, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on July 17, 2008. The claimant participated personally. The employer participated through Susan Bufis, Regional Manager. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired in October 2005, as a full-time store manager. The employer verbally reprimanded the claimant on April 10, 2008, for failure to staff the store. There were no other employees willing to work except the claimant. The claimant telephoned the employer back in one hour and submitted her resignation. Continued work was available had the claimant not resigned.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit work 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(28) 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:

(28) The claimant left after being reprimanded.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer she was quitting and stopped appearing for work. When an employee quits work after being reprimanded, the separation is without good cause attributable to the employer. The claimant quit work after she was reprimanded. Her separation was not with good cause attributable to the employer. The claimant voluntarily quit work without good cause attributable to the employer. 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 June 19, 2008, reference 01, representative's decision is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible. The claimant is overpaid unemployment insurance benefits in an amount of \$2,520.00.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw