

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACY L MONDABOUGH
Claimant

APPEAL NO. 06A-UI-10943-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRYSTAL PROPERTIES INC
Employer

**OC: 10/15/06 R: 03
Claimant: Respondent (2)**

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

STATEMENT OF THE CASE:

Crystal Properties, Inc. (employer) appealed a representative's November 9, 2006 decision (reference 01) that concluded Tracy L. Mondabough (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit her employment for reasons that qualified her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 29, 2006. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Bobbi Coster and Suzie Davis, the director of nursing, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on March 9, 2006. The claimant worked as a full-time CNA. Davis was her supervisor.

On September 28, Davis talked to the claimant in a resident's room and asked her why she had not reported a wound on the resident. The first person to report the wound was Davis. The employer concluded and told the claimant she had not provided adequate care to this resident. On September 29, the employer gave the claimant a documented verbal warning for failing to provide adequate to a resident.

On September 30, the claimant, a co-worker, Davis and Coster met after the claimant and her co-worker complained that Davis had not treated them fairly when she reprimanded them about the resident's wound. During the conversation, the employer understood the claimant asserted Davis had yelled at her. During the meeting, Davis explained that she had been very concerned when she found the wound, but she denied that she yelled at the claimant or her co-worker. As a result of the discussion, the employer believed the claimant's issues had been satisfactorily resolved and there were no further problems to address.

After the meeting, the claimant did not answer residents' call lights and left work early without authorization. The claimant did not report to work or contact the employer again after September 30, 2006.

The claimant established a claim for unemployment insurance benefits during the week of October 15, 2006. The claimant filed claims for the weeks ending October 21 through November 11, 2006. The claimant received her maximum weekly benefit amount of \$270.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. The facts reveal the claimant voluntarily quit her employment on September 30 when she left work early without authorization and failed to report to work again. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The law presumes a claimant voluntarily quits employment without good cause when she leaves employment after receiving a reprimand. 871 IAC 24.25(28). The evidence indicates the claimant quit her employment after the employer gave her a verbal warning for failing to provide a resident with adequate care during her shift. For unemployment insurance purposes, the claimant quit her employment for reasons that do not qualify her to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending October 21 through November 11, 2006. The claimant has been overpaid \$1,080.00 in benefits she received for these weeks.

DECISION:

The representative's November 9, 2006 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 15, 2006. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive unemployment insurance benefits for the weeks ending October 21 through November 11, 2006. The claimant has been overpaid and must repay a total of \$1,080.00 in benefits she received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw