

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHELLY J DUNFORD
Claimant

SHREENATHJI CORP
Employer

APPEAL 16A-UI-13039-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/13/16
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

Shreenathji Corp. (employer) filed an appeal from the December 6, 2016 (reference 01) unemployment insurance decision that allowed benefits based upon the determination Shelly J. Dunford (claimant) voluntarily quit her employment due to detrimental conditions which is a good cause reason attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on December 28, 2016. The claimant did not respond to the hearing notice and did not participate. The employer participated through Head of Housekeeping Arlett Webb and General Manager Rica Patel. No exhibits were offered or received into the record. Official notice was taken of the administrative record, specifically the fact-finding documents and the claimant's database readout (DBRO).

ISSUES:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?
Has the claimant been overpaid unemployment insurance benefits?
Can the repayment of those benefits to the agency be waived?
Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a Housekeeper beginning on March 11, 2016, and was separated from employment on November 15, 2016, when she quit.

The week before her employment ended, the claimant was given a written warning which she did not sign. On November 14, 2016, Head of Housekeeping Arlett Webb asked the claimant to report to work as there was extra work to be done. The claimant refused to come to work.

On November 15, 2016, when the claimant was clocking in for her scheduled shift, General Manager Rica Patel asked the claimant to come to her office. Once they were in the office, Patel asked the claimant why she refused to sign the warning and why she refused to come to

work on Monday. The claimant became upset and yelled at Patel. She concluded the discussion by saying she quit and left the employer's premises. Had the claimant not quit, there was continuing work available to her.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$684.00, since filing a claim with an effective date of November 13, 2016, for the six weeks ending December 24, 2016. The administrative record also establishes that the employer did participate in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits based on wage credits from this employer's account are denied.

Iowa law disqualifies individuals who voluntarily quit employment without good cause attributable to the employer from receiving unemployment insurance benefits. Iowa Code § 96.5(1). Individuals who leave after being reprimanded are presumed to have quit without good cause attributable to the employer. Iowa Admin. Code r. 871-24.25(28). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

The claimant's decision to quit because she did not agree with the verbal reprimand she received for not signing the written warning or reporting to work the day before was not for a good cause reason attributable to the employer. Accordingly, benefits based on wage credits from this employer's account are denied.

Because the claimant's separation was disqualifying, benefits were paid to which she was not entitled. 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. Iowa Code § 96.7. 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. Iowa Admin. Code r. 871-24.10(1). The employer will not be charged for benefits if it is determined that they did participate in the fact-finding interview. Iowa Code § 96.3(7), Iowa Admin. Code r. 871-24.10. In this case, the claimant has received benefits but was not eligible for those benefits. Since the employer did participate in the fact-finding interview the claimant is obligated to repay to the agency the benefits she received and the employer's account shall not be charged.

DECISION:

The December 6, 2016 (reference 01) unemployment insurance decision is reversed. The claimant voluntarily left the 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 been overpaid unemployment insurance benefits in the amount of \$684.00 and is obligated to repay the agency those benefits. The employer did participate in the fact-finding interview and its account shall not be charged.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src