

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN K SCHOOLEY
Claimant

APPEAL NO. 10A-UI-07549-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEATON CORPORATION
Employer

**Original Claim: 04/04/10
Claimant: Respondent (2-R)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Seaton, filed an appeal from a decision dated May 13, 2010, reference 01. The decision allowed benefits to the claimant, Susan Schooley. After due notice was issued, a hearing was held by telephone conference call on July 13, 2010. The claimant participated on her own behalf. The employer participated by Safety Manager Carlos Rojas-Neira.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Susan Schooley was employed by Seaton from December 10, 2007 until July 23, 2010. She was assigned during the entire tenure at Proctor and Gamble at various assignments.

Ms. Schooley reported a work-related injury in March 2009 and was sent to the company doctor. He determined the injury was not work-related after a series of tests concluding on June 25, 2009. The report said she had suffered chronic pain in that wrist since 1992 and she was referred to her primary care physician to have a “fit for duty” report filled out.

The employer supplied her with the documents her doctor was to fill out on July 8, 2010. Her doctor did not do this and she went again to the company doctor. He declined to fill out the “fit for duty” section, but did specify her restrictions. Ms. Schooley maintained these documents were faxed to Seaton by the doctor and she also dropped off a copy of the papers at the guard shack at the client company. After that, she did not follow up to determine if the employer received these documents, whether they were sufficient, and what other steps she had to take to return to work.

The employer considered her a voluntary quit as of July 24, 2010, after she had made no contact with the employer for 15 days. She remains under the same restrictions the doctor initially imposed in July 2009.

Susan Schooley has received unemployment benefits since filing an additional claim with an effective date of July 5, 2009.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant was aware she had to have the appropriate documentation from her own physician about her fitness to return to work. She did not do this. Whatever documentation allegedly was filled out by the company doctor did not reach the employer and the claimant made no effort whatsoever to contact Seaton to find out if the documents had been received, or what, if anything, more she had to do to return to work.

Her failure to make a good-faith effort to comply with the employer's instructions or to maintain any contact must be considered a voluntary quit without good cause attributable to the employer. It was her decision to let matters remain as they were without the required documentation on her fitness to return to work being supplied. The claimant is disqualified.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

- a. 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.

- b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

- (2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This

subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which she is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

DECISION:

The representative's decision of May 13, 2010, reference 01, is reversed. Susan Schooley is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

The issue of whether the claimant is currently able and available for work is also remanded for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw