

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PEGGY DESANTIAGO
Claimant

APPEAL NO. 07A-UI-05640-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARAMARK FHC LLC
Employer

OC: 05/06/07 R: 01
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

Aramark FHC, LLC (employer) appealed an unemployment insurance decision dated May 23, 2007, reference 01, which held that Peggy DeSantiago (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 June 21, 2007. The claimant participated in the hearing. The employer participated through Debra Potter, Food Service Director. Employer's Exhibit One was admitted into evidence. 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 qualifies her to receive unemployment insurance benefits?

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 as a full-time cook on August 26, 1999 and was promoted to a kitchen supervisor in approximately 2005. She continued in that capacity until she voluntarily quit her employment effective May 4, 2007. The claimant quit because her supervisor made her "feel dumb" by giving her "disapproving looks." The supervisor also made her feel dumb by stating, "You're the kitchen supervisor and you should be able to do this job." The employer had a new computer system and the claimant did not feel the supervisor gave her any training on it. The claimant "was afraid to ask questions because she would give me this disapproval look."

On May 4, 2007, the supervisor brought it to the claimant's attention that she left an invoice off the inventory, and the claimant became very upset and said the supervisor needed someone else in that job. The claimant said she considered stepping down but did not want to do that and began crying. The conversation was cut short, but the supervisor told her at the end of the day that she needed to say what she wanted to do. The supervisor found the claimant's

resignation notice on her desk on May 7, 2007. The supervisor and the claimant had worked together many years and were friends outside of work, so the supervisor was surprised when the claimant resigned.

The claimant filed a claim for unemployment insurance benefits effective May 6, 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 § 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 submitting her written resignation to the employer. She quit because her supervisor gave her "disapproving" looks and made her feel dumb. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). The claimant's supervisor never said anything inappropriate or used profanity towards the claimant.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

Iowa Code § 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 May 23, 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 \$1,242.00.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw