

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JODY A HEAD**  
Claimant

**APPEAL NO. 10A-UI-01154-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 12/13/09**  
**Claimant: Respondent (2R)**

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

**STATEMENT OF THE CASE:**

Care Initiatives filed a timely appeal from a representative's decision dated January 14, 2010, reference 01, which held the claimant eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was held on March 1, 2010. The claimant participated personally. The employer participated by Mr. Thomas Kuiper, Hearing Representative and witnesses Kathey Bagwell, Director of Nursing and Diane Panzi.

**ISSUE:**

The issue is whether the claimant left employment with good cause attributable to the employer and whether the claimant has been overpaid job insurance benefits.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: The claimant was last employed as a full-time certified blood aide for this employer from March 11, 2007 until November 18, 2009 when she voluntarily quit employment. The claimant was paid by the hour. Her immediate supervisor was Kathey Bagwell.

Ms. Head left her employment after becoming dissatisfied with scheduling errs that had been made by the employer. Ms. Head had requested numerous schedule accommodations due to her educational pursuits. On occasion the employer would make an err in scheduling and management and/or hourly employees would attempt to contact the claimant about reporting for work. When errs were pointed out the employer would make adjustments to the schedule. The employer did not believe that the claimant was at fault for the errs and any absences were not held against the claimant.

Because of her dissatisfaction Ms. Head met with Ms. Bagwell, the director of nursing. When the claimant became somewhat agitated during the meeting, Ms. Head was instructed that if she continued to be aggressive she "could leave." At that time the claimant chose to leave her employment once again stating, "I've had it...I'm out of here."

### **REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence in the record establishes good cause attributable to the employer for leaving this employment. It does not.

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 evidence in the record establishes that at times scheduling errs were made and the claimant had been called by management or hourly employees about why she had not reported for work. Due to the accommodations that the claimant had requested in her scheduling because of her educational pursuits, the employer had difficulty at times tracking when Ms. Head desired to be off work. The scheduling errs were not held against the claimant. The evidence in the record establishes that the claimant chose to voluntarily leave her employment due to general dissatisfaction with the errs. The claimant was not discharged and was given the option of continuing to discuss dissatisfaction with the director of nursing. The claimant instead chose to leave employment.

While the claimant's reasons for leaving may have been good from her personal viewpoint, they were not good cause reasons attributable to the employer. Benefits are withheld.

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.

**DECISION:**

The representative's decision dated January 14, 2010 reference 01, is reversed. The claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, providing that she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remand to the UIS Division for determination.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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