

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

JONI L BOS  
2708 CHICAGO AVE  
DES MOINES IA 50317

HOB-LOB LIMITED PARTNERSHIP  
c/o TALX UCM SERVICES  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-01509-DT  
OC: 12/26/04 R: 02  
Claimant: Respondent (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

Hob-Lob Limited Partnership (employer) appealed a representative's February 1, 2005 decision (reference 01) that concluded Joni L. Bos (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 1, 2005. The claimant participated in the hearing. Barb Hamilton of TALX UCM Services appeared on the employer's behalf and presented testimony from two witnesses, John Leland and Doris Schmidt. 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:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on November 8, 1999. She worked full time as manager of the framing shop in the employer's Des Moines, Iowa store. Her last day of work was December 9, 2004.

The claimant had been unhappy with the oversight of her department under the management of store manager John Leland since 2001. On December 9, 2004, a customer came into the store for a framing special, wanting to have the work done in time for Christmas. The claimant told the customer it was not possible to have the work done by that time. While the department usually ran at a two-week turn around time, at that point, the department was running at about a month turn around. The customer became upset, saying that she had been in some time earlier and had been told she should wait and bring her project in later to get the special, and that she could still get it in time for Christmas. Mr. Leland got involved, and determined to accommodate the customer. He instructed the claimant to write up the order and to get the work done by Christmas. The claimant became upset, and called the customer a liar, which the customer heard and became more upset. After again placating the customer, Mr. Leland saw to getting the customer's order taken and got her out of the store. He then told the claimant to come back to his office to discuss the incident, saying it was not handled properly.

The claimant refused to come to his office, and responded that she was fed up, that she was done, and that she was going home, which Mr. Leland accepted. He then went into another office, where the claimant followed in a few minutes later and began yelling at him. He told her to stop, but she responded that she was not her boss any more, and she could say what she liked. She continued for a few more minutes, and then left when Mr. Leland threatened to have her physically removed.

The claimant established a claim for unemployment insurance benefits effective December 26, 2004. The claimant has received unemployment insurance benefits after the separation from employment in the amount of \$2,008.00.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

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.

871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The claimant did express her intent not to return to work with the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684

(Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). While the claimant's work situation was perhaps not ideal, she has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied her burden. Benefits are denied.

Iowa Code section 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 representative's February 1, 2005 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of December 9, 2004, benefits are withheld until such time as the claimant 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 is overpaid benefits in the amount of \$2,008.00.

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