

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHELLE L ROCKETT**  
Claimant

**APPEAL NO: 14A-UI-03781-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MOSAIC**  
Employer

**OC: 02/23/14**  
**Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

Mosaic (employer) appealed a representative's April 1, 2014 decision (reference 01) that concluded Michelle L. Rockett (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 April 29, 2014. The claimant participated in the hearing. Tom Kuiper of Equifax/TALX Employer Services appeared on the employer's behalf and presented testimony from three witnesses, Teresa Tekolste, Lewis James, and Thack Caven. 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.

**ISSUES:**

Did the claimant voluntarily quit for a good cause attributable to the employer? Was the claimant overpaid unemployment insurance benefits and is that overpayment subject to recovery?

**OUTCOME:**

Reversed. Benefits denied.

**FINDINGS OF FACT:**

The claimant started working for the employer on July 30, 2013. She worked full time as a direct support associate in one of the employer's Des Moines, Iowa area group homes for adults with intellectual disabilities. Her last day of work was February 21, 2014. She voluntarily quit on February 25, 2014.

On February 21 the claimant reported an incident which occurred with a coworker in which she asserted that he coworker had attempted to grope and kiss her. The employer began an investigation. The employer assured the claimant that she would not have to work with the coworker during this investigation. The claimant was very upset, and called in absences on

February 22, February 23, February 24, and February 25. The employer had planned to have the coworker work at a different group home on those days, but when the claimant called in absences, had him go ahead and work at the same group home as he had originally been scheduled. The claimant learned that the coworker had continued to work at the same group home, and became further upset. The employer attempted to continue to investigate the complaint, but on February 25 the claimant informed the employer that she was “done with it” and that she was quitting. The employer was therefore unable to complete its investigation.

The claimant established a claim for unemployment insurance benefits effective February 23, 2014. A fact-finding interview was held with a Claims representative on March 31, 2014. The employer, through a Phyllis Farrell, participated directly in the fact-finding interview. The claimant has received unemployment insurance benefits after the separation in the amount of \$2,312.00.

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

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer 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 a dissatisfaction with the work environment or a personality conflict with a coworker is not good cause. 871 IAC 24.25(21), (6). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). The claimant 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). She ceased cooperating with the employer and failed to give the employer sufficient opportunity to address the complaint which she had made. The claimant has not satisfied her burden. Benefits are denied.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer’s account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a,--b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid benefits. Because the employer participated in the

fact-finding interview, the claimant is required to repay the overpayment and the employer will not be charged for benefits paid.

**DECISION:**

The representative's April 1, 2014 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of February 25, 2014, 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 employer's account is not subject to charge. The claimant is overpaid \$2,312.00, which is subject to recovery.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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