

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

JOLENE M CARLSON
126 – 13TH NE
MASON CITY IA 50401

DIMENSIONAL GRAPHICS CO
325 N JACKSON
PO BOX 1893
MASON CITY IA 50401

Appeal Number: 04A-UI-06534-HT
OC: 12/21/03 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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

The employer, Dimensional Graphics, filed an appeal from a decision dated June 10, 2004, reference 01. The decision allowed benefits to the claimant, Jolene Carlson. After due notice was issued a hearing was held by telephone conference call on July 9, 2004. The claimant participated on her own behalf. The employer participated by Co-Owner Adam Gold.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Jolene Carlson was employed by Dimensional Graphics from March 15 until May 19, 2004. She was a full-time production worker.

On May 19, 2004, the claimant walked off the job prior to the end of her shift. She was frustrated and anxious about the work she was doing. However, at no time prior to leaving did she approach Production Supervisor Jim Lamont, or the other supervisor, Craig, to express her concerns and ask for help. Co-Owner Adam Gold and Paul Gold were also in the facility but she said nothing to them. She did call later in the afternoon to talk to Mr. Lamont who told her there would "be consequences" because she had walked off the job. She met with Paul Gold on May 20, 2004, to discuss returning to work, he said they would let her know if she could be rehired. A meeting between the owners and the production supervisor on May 21, 2004, concluded Ms. Carlson would not be rehired and she was notified by Mr. Lamont by phone on May 24, 2004.

Jolene Carlson has received unemployment benefits since filing an additional claim with an effective date of May 16, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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 record establishes the claimant quit by walking off the job without permission. Although she may have been upset, she did not seek help from any supervisor or manager prior to leaving. She did not inform anyone she would quit unless her concerns were met as required by the provisions of Swanson v. EAB, 554 N.W.2d 294 (Iowa App. 1996). The claimant's assertion she was discharged is not supported by the evidence. Although she stated it was not her intention to quit, her conduct of leaving without permission is, by operation of law, a voluntary quit without good cause attributable to the employer. She is disqualified.

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.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of June 10, 2004, reference 01, is reversed. Jolene Carlson is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible. She is overpaid in the amount of \$1,248.00.

bgh/kjf