

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARLA R RUDNICK**  
Claimant

**APPEAL NO. 06A-UI-11277-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GENERAL NOVELTY LTD**  
Employer

**OC: 10/22/06 R: 02**  
**Claimant: Respondent (2)**

Section 96.5(1) – Voluntary Quit  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

General Novelty, Ltd. filed an appeal from a representative's decision dated November 17, 2006, reference 01, which held that no disqualification would be imposed regarding Carla Rudnick's separation from employment. After due notice was issued, a hearing was held by telephone on December 11, 2006. Ms. Rudnick participated personally. The employer participated by Doug Harris, VP for Human Resources, and Dana Zimmerman, IT Director. Exhibits One through Six were admitted on the employer's behalf.

**ISSUE:**

At issue in this matter is whether Ms. Rudnick was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Rudnick began working for General Novelty, Inc. on January 19, 2006 as a full-time receptionist. One of her duties was to maintain the books for the petty cash and employee funds. The money in both funds is the property of the employer. The fund is sometimes used to make purchases for the business rather than requesting a check from the office in Denver. On October 20, Dana Zimmerman purchased a television using funds from the employee fund. Ms. Rudnick left him a note asking if he intended to repay the funds removed. On October 21, Mr. Zimmerman wrote a note to Ms. Rudnick on the bottom of the note she left for him. In the note, he asked for the balances in the petty cash and employee funds. It was his intent to see if he needed to get money from Denver to replenish the account.

When Ms. Rudnick did not respond to the note, Mr. Zimmerman sent her an e-mail on October 23 asking for the balances. She responded with an e-mail asking if Mr. Dobbs had approved him having the information as she was totally responsible for the funds. Mr. Zimmerman sent a return e-mail asking for the information by the end of the day. Shortly thereafter, Ms. Rudnick brought the notebook containing the fund journals to Mr. Zimmerman's office. She placed the notebook "firmly" on his desk and stated she did not want to get into

trouble by giving him the requested information. Mr. Zimmerman told her she was out of there and asked for her key to the front door. When Ms. Rudnick told other employees she had been fired, Mr. Zimmerman stated she was not being discharged, just sent home for the day. Ms. Rudnick continued to maintain that she was discharged and proceeded to clean out her desk.

On October 23, Ms. Rudnick sent a letter to Mr. Dobbs indicating she had been fired that day. She explained the circumstances of her separation. In a letter dated October 26, Doug Harris advised Ms. Rudnick that the company considered her to have quit but that she was welcome to return to the job by no later than October 30. The letter also advised that she would receive a written counseling because of the manner in which she dealt with Mr. Zimmerman. In response, Ms. Rudnick sent a written reply on November 1. She indicated she would return if she were to be supervised by someone other than Mr. Zimmerman. She also indicated she did not feel it would be appropriate to have Mr. Zimmerman issue the counseling since he was a party to the dispute. On November 2, the employer reiterated its offer to have her return to the employment by November 6 at the latest. She did not return.

Ms. Rudnick filed a claim for job insurance benefits effective October 22, 2006. She has received a total of \$1,052.00 in benefits since filing her claim.

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

The parties disagree as to whether the separation was a quit or a discharge. A quit is a separation initiated by the employee whereas a discharge is a separation initiated by the employer. When Ms. Rudnick brought the journals to Mr. Zimmerman's office, he told her "you're out of here." This statement, coupled with a request for her door key, could reasonably be construed as a discharge. However, before Ms. Rudnick left the premises, she was told she was not being discharged. She was only being sent home for the day. It was her choice to continue packing up her personal belongings even though she knew the employer's position was that she still had a job. She had communication with the employer after October 23 and was told on two occasions that she still had a job with the company. If she had returned, she would have been counseled for the way in which she delivered the journals to Mr. Zimmerman. Ms. Rudnick chose not to continue working for the company. For the above reasons, the administrative law judge concludes that the separation was initiated by Ms. Rudnick and is, therefore, a voluntary quit.

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Rudnick did not continue working for General Novelty, Ltd. because she did not want to be supervised by Mr. Zimmerman and because she did not want him to be the person to discipline her for her conduct of October 23. She had only identified to the employer one problem she was having with Mr. Zimmerman and that was the fact that he discussed employees with other employees. Mr. Harris indicated in his letter of October 26 that that issue had been addressed with Mr. Zimmerman.

The administrative law judge appreciates that Ms. Rudnick did not want Mr. Zimmerman to be the one to discipline her, if any discipline was warranted for her actions of October 23. The administrative law judge cannot conclude that discipline was unwarranted. The employer contended that Ms. Rudnick slammed the journal on Mr. Zimmerman's desk while she contended that she placed it "firmly" on the desk. The administrative law judge believes it was placed on the desk with more force than necessary but fell short of being slammed on the desk. Inasmuch as Mr. Zimmerman was her supervisor, the manner in which she placed the journals

on his desk merited counseling. It was not unreasonable that the supervisor administer the discipline.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Ms. Rudnick voluntarily quit her employment for no good cause attributable to the employer. Accordingly, benefits are denied. Ms. Rudnick has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

**DECISION:**

The representative's decision dated November 17, 2006, reference 01, is hereby reversed. Ms. Rudnick voluntarily quit her employment for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Rudnick has been overpaid \$1,052.00 in job insurance benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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