

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANNON HACKER
Claimant

APPEAL NO: 06A-UI-08809-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA CORPORATION
Employer

**OC: 08-06-06 R: 03
Claimant: Respondent (2)**

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 24, 2006, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 19, 2006. The claimant participated in the hearing. Travis Gray, Human Resources Representative; Jason Walker, Department Manager; and Richard Carter, Employer Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant was discharged for misconduct or voluntarily left her employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time assembler B for Pella Corporation from June 28, 1999 to July 10, 2006. The employer's policy requires employees to call within the first hour of their shift if they are not going to be at work. On June 29, 2006, the claimant left her identification badge on the desk in the production area, walked off the job and said, "I can't take this anymore." The employer tried to call the claimant but did not have the correct phone number for her and expected that she would show up June 30, 2006, but she did not call or show up for work that day. The claimant was off over the weekend and July 3 and 4, 2006. On July 5, 2006, the claimant was a no-call no-show but left a message for Department Manager Jason Walker after working hours expressing dissatisfaction with her evaluation and stating she would be in the following day. The claimant reported for work July 6, 2006, and was sent home because the plant manager was out of town and Mr. Walker was not sure if the claimant would be allowed to return. He told her she was being placed on unpaid suspension because the employer believed she voluntarily quit her job and he did not know whether she had a job or not. The claimant told Mr. Walker she wanted her job back and Mr. Walker asked why she left and the claimant indicated she was upset. On July 8, 2006, she called Human Resources Representative Travis

Gray at home and told him she was experiencing problems with her anti-depressant and anxiety attacks. On July 10, 2006, the plant manager returned and after a meeting about the situation the employer determined the claimant voluntarily quit by walking off the job June 29, 2006, and failing to call or show up for work June 30, 2006 and July 5, 2006. The claimant testified she was being weaned from her anti-depressant and was making irrational decisions and having other problems. She was also upset about her evaluation and about another employee being rude to her. She talked to her husband about her options after she walked out and they did not know whether she should continue her employment. After deciding she wanted her job back the claimant thought she would receive a corrective action letter, suspension and probation. By July 6, 2006, she knew her job status was "iffy" so she called the employer 13 times between the evening of July 5 and July 8, 2006, to ask for her job back. She had left the facility in the past when having an anxiety attack but received permission from the employer before doing so.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant asked the employer if she could have her job back and used the same terminology during the hearing when discussing her separation from this employer indicating she did voluntarily quit her job. While the claimant may have been experiencing medical issues with her anti-depressant and anxiety, she did not provide medical documentation to the employer notifying it of her medical condition and chose not to disclose it to the employer during the last incident until after she had been absent without calling in for more than three days. Additionally, it appears the claimant left June 29, 2006, because she was upset about her evaluation and because another employee was rude to her. She left her badge on the desk and stated, "I can't take this anymore," before walking off the job. Although she apparently changed her mind about quitting her job and wanted to rescind her resignation, the employer made the determination that she voluntarily left her position by walking out and not calling June 30 and July 5, 2006, and therefore it accepted her resignation. Consequently, the administrative law judge concludes the claimant voluntarily left her employment and has not demonstrated that her leaving was for good cause attributable to the employer. 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 August 24, 2006, reference 01, decision is reversed. The claimant voluntarily left her employment without 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 benefit amount, provided she is otherwise eligible. The claimant is overpaid benefits in the amount of \$2,004.00.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs