

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARGARET A LOPIE**  
Claimant

**APPEAL NO. 09A-UI-10496-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT & COMPANY**  
Employer

**Original Claim: 06/14/09  
Claimant: Respondent (2-R)**

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

**STATEMENT OF THE CASE:**

Swift & Company filed an appeal from a representative's decision dated July 10, 2009, reference 01, which held that no disqualification would be imposed regarding Margaret Lopie's separation from employment. After due notice was issued, a hearing was held by telephone on August 10, 2009. The employer participated by Aaron Vawter, Human Resources Coordinator. Ms. Lopie did not respond to the notice of hearing.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Lopie began working for Swift on April 7, 2008 as a full-time production employee. She requested and was granted a medical leave of absence beginning May 28, 2009. She took the leave of absence to take care of her newborn child. The leave of absence is scheduled to end on September 20, 2009. Ms. Lopie has not attempted to return to work at any point since May 28, 2009.

Ms. Lopie filed a claim for job insurance benefits effective June 14, 2009. She has received a total of \$1,329.00 in benefits since filing the claim.

**REASONING AND CONCLUSIONS OF LAW:**

Ms. Lopie is unemployed because she requested and was granted a medical leave of absence. Under such circumstances, an individual is considered voluntarily unemployed and not eligible to receive job insurance benefits during the leave. 871 IAC 24.22(2)j. As such, Ms. Lopie is not entitled to benefits on her claim filed effective June 14, 2009. She has received benefits since filing the claim. Based on the decision herein, the benefits received now constitute an overpayment.

As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

**DECISION:**

The representative's decision dated July 10, 2009, reference 01, is hereby reversed. Ms. Lopie is denied benefits effective June 14, 2009, as she is voluntarily unemployed from her job with Swift. Benefits are withheld until her leave of absence expires and she re-offers her services to the employer, provided no suitable, comparable work is available and she is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Ms. Lopie will be required to repay benefits.

---

Carolyn F. Coleman  
Administrative Law Judge

---

Decision Dated and Mailed

cfc/kjw