

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATASHA J CARTER
Claimant

APPEAL NO. 11A-UI-11543-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARVEST MANAGEMENT SUB LLC
HOLIDAY RETIREMENT
Employer

OC: 07/24/11
Claimant: Respondent (2R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Harvest Management Sub filed a timely appeal from an unemployment insurance decision dated August 22, 2011, reference 01, that allowed benefits to Natasha J. Carter. After due notice was issued, a telephone hearing was held September 27, 2011 with Community Manager Valarie Monroe participating for the employer. Ms. Carter did not provide a telephone number at which she could be contacted. The administrative law judge takes official notice of Agency benefit payment records.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Natasha J. Carter was employed as a part-time housekeeper by Harvest Management Sub, LLC from March 3, 2009 until she walked off the job without notification on July 11, 2011. Ms. Carter did not return for her scheduled work shifts. Community Manager Valerie Monroe did not see Ms. Carter again until Ms. Carter stopped by the facility to pick up her final paycheck. Further work would have been available to Ms. Carter had she continued to report to work. The claimant has received unemployment insurance benefits since filing a claim during the week of July 24, 2011.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

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 claimant has the burden of proof. See Iowa Code section 96.6-2. As noted above, the claimant did not participate in the hearing. The only evidence before the administrative law judge establishes that Ms. Carter abandoned her job by leaving in mid-shift on July 11, 2011 without notification and not returning to the employer thereafter. Benefits are withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The question of whether the claimant must repay the benefits she has received is remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated August 22, 2011, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The question of repayment of benefits is remanded.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

css/css