

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROXANNE BAYNE
Claimant

APPEAL NO: 12A-UI-12890-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

STARBUCKS COFFEE CO
Employer

**OC: 10-07-12
Claimant: Respondent (2R)**

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 October 19, 2012, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on November 29, 2012. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Cassie Bennett, Store Manager; Darren Johnson, Store Manager; and Tom Kuiper, Employer's Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time barista for Starbucks from December 1, 2005 to September 21, 2012. Shortly before the separation, the claimant and Store Manager Cassie Bennett discussed her upcoming performance review and what improvements she made from her previous review and the claimant stated she had not improved. On September 21, 2012, the claimant asked to speak to then Assistant Manager Darren Johnson and they went to the office where the claimant stated she felt like she should no longer work for Starbucks. Mr. Johnson asked if she meant she did not feel like she could work that day or permanently and the claimant stated permanently. There was no further conversation about the matter and the claimant left. The claimant had not mentioned any problems or concerns regarding her employment prior to quitting.

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 did not participate in the hearing and offer any evidence or explanation regarding the reasons for leaving her employment. She did not tell the employer why she was leaving and had not made any previous complaints or expressed any concerns about her employment. Under these circumstances, the administrative law judge must conclude the claimant has not met her burden of proving her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code section 96.3-7. In this case, the claimant has received benefits but was not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

DECISION:

The October 19, 2012, 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 has received benefits but was

not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css