

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CONNIE L SPIEKER**  
Claimant

**APPEAL NO. 10A-UI-12412-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SPHERION STAFFING LLC**  
Employer

**OC: 07/18/10**  
**Claimant: Respondent (2-R)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Spherion Staffing LLC filed a timely appeal from the representative's decision dated August 25, 2010, reference 03, which held claimant eligible to receive unemployment insurance benefits finding the claimant to be still employed and on a short-term layoff and therefore able and available for work and eligible for benefits. After due notice, a telephone hearing was held on October 18, 2010. Claimant participated personally. The employer participated by Misty Evens and Denice Riebec.

**ISSUE:**

The issue is whether the claimant quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Connie Spieker was employed by Spherion Staffing LLC from September 9, 2009 until November 7, 2009 when she voluntarily quit employment due to dissatisfaction with her assignment at Maxyfield Cooperative. The claimant had been assigned to work at Maxyfield Cooperative from September 9, 2009 until the date she quit November 7, 2009. Ms. Spieker worked as an administrative assistant and was paid \$11.00 per hour.

Prior to leaving employment Ms. Spieker indicated to Spherion Staffing that she was dissatisfied as she was having difficulty learning various parts of her job at the cooperative. The claimant also expressed some dissatisfaction with her trainer, "Penny." Ms. Spieker continued her employment until November 7, 2009. On that date she was upset with the manner in which Penny had addressed her and was also upset because of personal issues at home relating to her daughter. Ms. Spieker therefore left a voice message indicating she was quitting employment. Work continued to be available to the claimant at the time she left. Spherion Staffing LLC was not aware that Ms. Spieker was experiencing any harsh or unusual treatment at Maxyfield Cooperative.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily left 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.

An individual who voluntarily leaves her employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991). Claimants are not required to give notice of intention to quit due to intolerable or detrimental or unsafe working environments if the employer had or should have had reasonable knowledge of the condition. Hy-Vee v. Employment Appeal Board, 710 N.W. 2d 1 (Iowa 2005).

Inasmuch as the claimant did not give the employer reasonable notice of any particular issues with her trainer, the employer did not have an opportunity to resolve Ms. Spieker's complaint prior to leaving employment. The test as to whether an individual has good cause attributable to an employer for leaving employment is not a subjective test as to whether the employee themselves feel they have good cause but an objective test as to whether a reasonable person would have quit under similar circumstances. Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988). See also O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993).

In this case the claimant made Spherion aware that she was generally dissatisfied with the assignment because she was having trouble learning the scaling and computer requirements. Although the claimant made some reference to her trainer, the claimant did not make it clear that the trainer was treating Ms. Spieker inappropriately and that she would leave employment if that issue were not resolved. The evidence in the record establishes that "Penny's" use of rough language was not limited to Ms. Spieker but was the manner that person generally used in dealing with employees of Maxyfield Cooperative.

Inasmuch as the claimant did not give the employer an opportunity to resolve her complaints prior to leaving employment, the separation was without good cause attributable to the employer. Benefits are denied.

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.

**DECISION:**

The August 25, 2010, reference 03, decision is reversed. 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, providing that she is otherwise eligible. The issue of whether the claimant must repay unemployment insurance benefits is remanded to the UIS Division for determination.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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