

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHELLE HOWERTON**  
Claimant

**APPEAL NO: 07A-UI-04493-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARSON PIRIE SCOTT INC**  
Employer

**OC: 04-08-07 R: 04**  
**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 April 25, 2007, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 17, 2007. The claimant participated in the hearing. Carrie Hall, Assistant Store Manager/Human Resources, and Al Foster, Store Manager, 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 full-time salon manager for Carson Pirie Scott from July 12, 2006 to March 24, 2007. She submitted her resignation notice March 12, 2007, because she felt she did not have the respect of her team and that management did not back her up in the manner she expected. On March 1, 2007, the claimant complained to Carrie Hall, Assistant Store Manager/Human Resources, about an employee with attendance problems. Ms. Hall instructed the claimant to compile a list of tardiness and absenteeism and e-mail the list to her. The claimant had problems with the employer's e-mail system and, consequently, was upset she was required to use that rather than simply provide a hand-written or verbal account of the employee's absenteeism but she did not express her concerns to Ms. Hall. She was also upset that salon employees were using vulgar language and sexual innuendos and on one occasion they did so in front of Store Manager Al Foster and the regional manager. The claimant instructed the employees to move on to a different topic and was told by the regional manager she should have pulled the offending employees aside and spoke to them individually about their conduct outside the presence of the customers. Mr. Foster assured the regional manager the situation would not occur again but it continued to happen and the claimant felt she could not control the inappropriate conversation. The employer tried to get the claimant to stay, even if not as manager, but the claimant was determined to leave her position because she was

frustrated with the way the employer did, or did not, follow up on her complaints about her staff and she did not believe she had the respect of her team. The claimant's last day worked was March 16, 2007.

The claimant has claimed and received unemployment insurance benefits since her separation from this employer.

**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. While the claimant was faced with some frustrating situations, it is difficult to fault Ms. Hall for asking for the attendance list to be sent by e-mail because the claimant did not tell her she was having difficulty with the employer's e-mail system. Likewise, while Mr. Foster and the regional manager were present on one occasion when employees were making inappropriate innuendos and using inappropriate language, the claimant was instructed on the correct way to handle the situation. The claimant believed she did not have any control in the management position and "felt like a complete failure." While the claimant was not satisfied with her job or her performance or that of others, she has not demonstrated that her leaving was for unlawful, intolerable or detrimental conditions as good cause attributable to the employer is defined by Iowa law. Consequently, benefits must be 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 April 25, 2007, 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 \$1,414.00.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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