

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SHIRLEY I NATION
521 W MAPLE ST
CHEROKEE IA 51012

CHEROKEE TRUCK BODIES INC
PO BOX 288
ARMSTRONG IA 50514

AMENDED

Appeal Number: 04A-UI-02393-HT
OC: 02/01/04 R: 01
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

The employer, Cherokee Truck Bodies, Inc. (Cherokee), filed an appeal from a decision dated February 25, 2004, reference 01. The decision allowed benefits to the claimant, Shirley Nation. After due notice was issued a hearing was held by telephone conference call on March 23, 2004. The claimant participated on her own behalf and with a witness Tom French. The employer participated by Operations Manager Peter Johnson.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Shirley Nation was employed by Cherokee from July 29, 2003 until January 25, 2004. She was a part-time clerical employee. Ms. Nation had worked for the previous owners for approximately 18 years until a bankruptcy resulted in new owners.

The new owners reduced the amount of staff and cut some hours, and additional duties were assigned to the remaining workers. These changes resulted in some stress for Ms. Nation and Operations Manager Peter Johnson. The claimant felt she was being blamed for things which were not her responsibility and on December 12, 2003, talked to Chief Operations Office Steve Saggau about the accusations being made by Mr. Johnson. A meeting was held for the office staff and Mr. Saggau stated he did not want employees blaming each other for problems, but to address the problems and "move forward."

On January 23, 2004, the claimant again talked to Mr. Saggau and complained that Mr. Johnson had accused her of defying his orders when she had entered certain information into the computer. She was advised to talk to Mr. Johnson and explain she had not been attempting to defy his orders but to do her work to the best of her ability. When she did this she and Mr. Johnson went to the computer and corrected the problem in about five minutes. She then left and did not return, but submitted a written resignation to Mr. Saggau on January 25, 2004, citing the stress of the job.

Shirley Nation has received unemployment benefits since filing a claim with an effective date of February 1, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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.

871 IAC 24.25(21) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

The claimant was undoubtedly under some pressure due to the new ownership of the business, as were other employees. The final incident was a misunderstanding where Mr. Johnson felt the claimant had deliberately ignored his instructions regarding entries into the computer.

Ms. Nation took the correct course of action by discussing her concerns with the chief operations officer and his solution was to have the two individuals concerned "work it out." The claimant informed Mr. Johnson it had not been her intent to defy his orders but to do her work in the best way she considered possible, the problem with the computer entry was then corrected, and the claimant left.

There is nothing in this scenario which the administrative law judge considers to have been unreasonable on the part of anyone concerned. The complaint was made, the supervisor suggested a course of action to resolve it, and that was done. While the claimant felt she was being singled out there is nothing in the record to support this. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). The record establishes the claimant did not have good cause attributable to the employer for quitting and she is disqualified.

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.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of February 25, 2004, reference 01, is reversed. Shirley Nation is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible. She is overpaid in the amount of \$1,092.00.

bgh/kjf