

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEFFANY M WALKER**  
Claimant

**APPEAL NO. 09A-UI-02528-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MEDLINE INDUSTRIES INC**  
Employer

**Original Claim: 01/11/09  
Claimant: Respondent (2-R)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The employer, Medline Industries, filed an appeal from a decision dated February 9, 2009, reference 01. The decision allowed benefits to the claimant, Steffany Walker. After due notice was issued, a hearing was held by telephone conference call on March 18, 2009. The claimant participated on her own behalf. The employer participated by Supervisor Christy McDonald and Human Resources Representative Liz Walech.

**ISSUE:**

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

**FINDINGS OF FACT:**

Steffany Walker was employed by Medline from September 18, 2006 until January 15, 2009 as a full-time service representative. She had received progressive discipline from Supervisor Christy McDonald beginning in June 2008, for poor work performance. Most of the problems were due to lack of attention, making errors rather than “slowing down” to make sure the work was done correctly. She was given a “performance improvement plan” as well, an extra step the employer took to try and preserve her job.

Ms. Walker received a final written warning January 9, 2009, which notified her any further problems would result in discharge. On January 12 or 13, 2009, the claimant made a coding error in an order and the order did not ship out overnight as the customer had requested, resulting in a complaint. Ms. McDonald spoke with the claimant about it, but did not indicate what, if any, further action was going to be taken. The claimant called in sick on January 14, 2009, and then the next day left a voice mail message for the supervisor stating she was resigning because she feared being discharged.

Steffany Walker has received unemployment benefits since filing a claim with an effective date of January 11, 2009.

## REASONING AND CONCLUSIONS OF LAW:

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 24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The claimant was not confronted with a choice of either resigning or being discharged. The employer did intend to discharge her had she appeared for work, but the claimant did not have any actual knowledge this would occur and was not confronted with the choice. Ms. Walker resigned because she had been previously reprimanded for her poor work performance and was concerned her last error would precipitate a discharge. Her decision to quit was entirely voluntary and without good cause attributable to the employer. She is disqualified.

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 claimant has received unemployment benefits to which she is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

**DECISION:**

The representative's decision of February 9, 2009, reference 01, is reversed. Steffany Walker is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw