

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEANNA F FINDLAY**  
Claimant

**APPEAL NO. 07O-UI-00022-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IA DEPT OF NATURAL RESOURCES**  
Employer

**OC: 09/24/06 R: 02  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer filed appealed unemployment insurance decision dated November 8, 2006, reference 01, that concluded the claimant voluntarily quit employment with good cause attributable to the employer. A telephone hearing was scheduled for January 22, 2007, but was continued until January 31, 2007, with the agreement of the parties because the employer had not received the claimant's documentation. On January 29, 2007, the claimant submitted a letter stating that she was declining her option of participating by phone but was submitting the letter in lieu of participating. The next day, the claimant submitted an addendum to the letter. The claimant, therefore, did not participate in the hearing. Doretha Washington participated in the hearing on behalf of the employer with witnesses, Linda Hanson, Dave Cretors, and Sally Jagadon. Exhibit A and Exhibits One through Three were admitted into evidence at the hearing.

**ISSUES:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

Was the claimant overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant worked full-time for employer from January 4, 1999, to July 6, 2006, as a clerk specialist in the customer services bureau. Dave Cretors became the claimant's supervisor in August 2005. Prior to that time, the claimant's supervisor was Carol Wiksell.

From June 2001, through July 2003, the claimant had conflicts with coworkers and managers in which she believed that she was being singled out for criticism, was required to perform more work, and had to follow rules that were not imposed on anyone else. She complained about this treatment but did not feel her complaints were handled properly. In January 2002, the claimant and the worker with whom the claimant was having the most problems were required to attend a meeting with supervisors, including Linda Hanson, the division administrator. During the meeting, Hanson told both employees that if they could not get along, they should look for other jobs. This upset the claimant because she believed she had not done anything wrong and it was the other employee who was the source of all the problems.

In February 2003, the claimant and another coworker were brought into a meeting with Wiksell. Wiksell said she had received complaints that they were not providing proper customer service to employees who came to the customer service center, ignoring or refusing to wait on employees. The claimant protested that what Wiksell said was not true and Wiksell responded that they were jokes of the floor and a disgrace. Wiksell said that the matter was serious and could result in serious consequences. The claimant later filed a union grievance alleging that Wiksell should not have conducted the meeting without union representative but ultimately the grievance was denied because the meeting was not considered disciplinary.

The claimant was off work due to surgery on March 28, 2006. Shortly before that date, the claimant perceived that the coworkers in her immediate area were not speaking to her. She complained to Cretors about the two coworkers' treatment of her. Cretors investigated the matter and determined that the concern involved the coworkers not engaging in casual conversations about non-work matters so he did not take corrective action.

When the claimant returned from medical leave, she received what she perceived was the same silent treatment from her two coworkers. In late May, she asked one of the coworkers what was happening. The coworker told her that everyone hated her, no one wanted her to come back to work, and everyone talked about her while she was gone.

These comments disturbed to the claimant, and as a result, she decided to quit her employment. She did not communicate the comments to Cretors or to any other supervisor. She informed Cretors that she would be submitting her resignation without providing any reason. On May 30, 2006, the claimant submitting her written resignation stating she was resigning effective July 6, 2006. No reason was given in her written resignation. During her exit interview, the claimant stated that she was leaving employment due to a desire to get in touch with her creative side and perhaps start her own business. The actual reason the claimant quit was because of the unfriendly treatment she was receiving from her immediate coworkers.

The claimant filed for and received a gross total of \$1,078.00 in unemployment insurance benefits for the weeks between September 24 and October 21, 2006.

#### **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant voluntarily quit 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.

871 IAC 24.26(4) 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:

- (4) The claimant left due to intolerable or detrimental working conditions.

The first issue is why the claimant quit her employment. Her written submissions set forth a multitude of problems and concerns she had starting in June 2001 with coworkers and supervisors. The problem is that after the events, the claimant continued to work for the

employer so that it is difficult to see how all these event were reasons for her quitting. A prime example of this is the incident reiterated and highlighted by the claimant in which Wiksell called the claimant and a coworker the “jokes” of the floor. The claimant grieved the matter, it was resolved against her, and she continued to work for the employer. The claimant outlined other complaints about Wiksell in support of her decision to quit. Wiksell stopped being her supervisor in July 2005. Not unusual in an employment relationship, Wiksell and the claimant apparently resolved their differences since the claimant writes about Wiksell in Exhibit A: “State government needs to look at Carol Wiksell for what she was and what she stood for. They need to use her as an example for all other management staff to model themselves after.”

The bottom line is the focus has to be on the reasons that caused the claimant to quit, not all the matters the claimant was dissatisfied with during the course of her employment. The preponderance of the evidence establishes that the claimant quit because her immediate coworkers were unfriendly toward her, stopped talking with her, and one of them expressed things to her that were cruel and insensitive.

The question is then whether such treatment by coworkers establishes intolerable or detrimental working conditions so that it can be said that the claimant quit employment with good cause attributable to the employer. I do not doubt the claimant’s sincerity about how she felt but the issue of whether working conditions are intolerable or detrimental involves an objective standard of reasonableness. Unquestionable, employees want to be liked and appreciated and have a harmonious relationship with their coworkers. The fact that coworkers, however, are not friendly or avoid casual talk while working does not create intolerable or detrimental working conditions.

The comments made by the coworker that that everyone hated her, no one wanted her to come back to work, and everyone talked about her while she was gone were unquestionably cruel and hurtful and might rise to the level of intolerable conduct by a coworker. The problem is that for the comments to provide good cause attributable to the employer, the claimant had to report the comments to management. If she had done so and the employer took no effective action to resolve the situation, an argument could be made that the employer had created intolerable working conditions. However, the claimant resigned without giving the employer the opportunity to address the alleged harassing comments by the coworker. Good cause attributable to the employer for leaving employment has not been satisfied in this case.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid gross total of \$1,078.00 in unemployment insurance benefits for the weeks between September 24 and October 21, 2006. In Exhibit A, the claimant expresses concern about the hardship if she is required to repay the overpayment. While the law does not provide exception for hardship for overpaid benefits, she can contact the Investigation and Recovery Bureau regarding a repayment arrangement.

**DECISION:**

The unemployment insurance decision dated November 8, 2006, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant was overpaid \$1,078.00 in unemployment insurance benefits.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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