

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PATRISHA L WALKER**  
Claimant

**APPEAL NO. 14A-UI-03815-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALEGENT HEALTH**  
Employer

**OC: 03/09/14**  
**Claimant: Respondent (2)**

Iowa Code Section 96.5(1) – Voluntary Quit  
Iowa Code Section 96.4(3) - Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 31, 2014, reference 01, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits. After due notice was issued, a hearing was held on April 29, 2014. Claimant Patrisha Walker participated. Alyce Smolsky of Equifax Workforce Solutions represented the employer and presented testimony through Sarah King, Loretta Reed, Susan Howell, and Peggy Leonard. The administrative law judge took official notice of the agency's record of benefits disbursed to the claimant. The administrative law judge took official notice of the fact-finding materials, but did so only for the purpose of determining whether the employer participated in the fact-finding interview.

**ISSUES:**

Whether the claimant voluntarily quit for good cause attributable to the employer.

Whether the claimant was overpaid benefits.

Whether the claimant must repay benefits.

Whether the employer's account may be charged for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Patrisha Walker was employed by Alegent Health as a full-time housekeeper from 2008 until March 12, 2014, when she voluntarily quit. Ms. Walker quit in response to a supervisor telling her that she could not leave work early on March 12, 2014. Ms. Walker asserts that she needed to leave to let her grandmother and her young children into her home. The employer asserts that Ms. Walker requested to leave because her boyfriend was waiting for her. In any event, Ms. Walker told the supervisor she was quitting before she walked off the job and did not return to the employment.

Ms. Walker established a claim for benefits that was effective March 9, 2014. Ms. Walker received \$1,632.00 in benefits for the period of March 16, 2014 through April 26, 2014.

A fact-finding interview was scheduled for March 28, 2014 and the parties were properly notified. The employer's representative from Equifax was not available for the fact-finding interview at the time set for the fact-finding interview. The claims deputy left a message for the employer representative, but the employer representative did not return the phone call. The employer representative did not have anyone from the employer lined up to provide an oral statement at the fact-finding interview if such was needed for rebuttal purposes. The employer representative submitted a written statement from the employer representative indicating that the claimant walked off the job.

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

Iowa Code § 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 requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record indicates that Ms. Walker voluntarily quit the employment without good cause attributable to the employer on March 12, 2014. Ms. Walker quit and walked off the job that day in response to a supervisor's refusal to approve her early departure from work. Regardless of whether Ms. Walker wanted to leave because her boyfriend was waiting or because she needed to let her grandmother and her children into her home, the evidence fails to indicate anything about that situation that would make it necessary for Ms. Walker to quit or that would prompt a reasonable person to quit. Ms. Walker concedes that she made a bad decision and should have handled the situation differently. The employer's refusal to authorize Ms. Walker's early departure from work did not rise to the level of intolerable and/or detrimental working conditions. Because Ms. Walker voluntarily quit the employment without good cause attributable to the employer, Ms. Walker is disqualified for benefits until 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 unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a, -b.

The claimant received benefits, but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid \$1,632.00 in benefits for the period of March 16, 2014 through April 26, 2014. Because the claimant did not receive benefits due to fraud or willful misrepresentation and employer failed to participate in the finding interview, the claimant is not required to repay the overpayment and the employer remains subject to charge for the overpaid benefits. The employer's account will not be charged for benefits for the period beginning May 6, 2014.

**DECISION:**

The claims deputy's March 31, 2014, reference 01, decision is reversed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until 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 was overpaid \$1,632.00 in benefits for the period of March 16, 2014 through April 26, 2014. Because the claimant did not receive benefits due to fraud or willful misrepresentation and employer failed to participate in the fact-finding interview, the claimant is not required to repay the overpayment and the employer remains subject to charge for the overpaid benefits. The employer's account will not be charged for benefits paid for the period beginning May 6, 2014.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs