

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA L HACKATHORN
Claimant

APPEAL NO: 07A-UI-07439-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

M & W MINI STORAGE
Employer

OC: 07/01/07 R: 02
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

M & W Mini Storage (employer) appealed a representative's July 23, 2007 decision (reference 01) that concluded Laura L. Hackathorn (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 20, 2007. The claimant participated in the hearing. Teresa (Bogard) Cranston, Randy Hicks and Richard Wellman were available to testify on the claimant's behalf. Cindy Brown, Max Lettween and Sandy Hoover appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on September 1, 2006. The employer hired the claimant to work as a full-time manager. The assistant manager, Harper, trained the claimant because Brown, the employer's director, was stationed out-of-state. After Harper trained the claimant for a month, the claimant had problems with Harper following the claimant's directions and doing the work the claimant assigned to Harper. The claimant reported all the problems she had with Harper to Brown. In December 2006 Brown asked the claimant if she could put up with the problems until February. The claimant agreed she could wait and would document all the problems she had with Harper and would present them to Brown in February.

Brown came to property the claimant managed in February. In addition to addressing the claimant's concerns with Harper, Brown also had a new software program to install and train the employees to use. The first day Brown came and did work was a Sunday, the claimant's day off from work. Brown did not bother the claimant on her day off. The next day, Brown wanted to train both the claimant and Harper on the new software program. After the training session or later that evening, Brown planned to talk to the claimant about her problems with Harper. When Brown would not let the claimant start talking about the problems she had with Harper right away or during the training session, the claimant incorrectly concluded Brown was not going to listen to anything the claimant had to say and had already decided to side with Harper. Before Brown had an opportunity to talk to the claimant about the problems she had with Harper, the claimant told Brown she was quitting because of continuing problems with Harper. The claimant could not take the stress of these unresolved issues any longer. Although Brown indicated she was disappointed that the claimant did not give her an opportunity to resolve the problems after she agreed she could wait until February for Brown to address and resolve her issues with Harper. After the claimant quit, Brown asked if she would stay until another manager had been trained or if she was going to leave in two or four weeks. The claimant indicated her last day would be March 10.

In late February, the claimant asked to rescind her resignation, but the employer did not allow this to occur. The claimant's last day of work was March 10 or 11, 2007.

The claimant established a claim for unemployment insurance benefits during the week of July 1, 2007. She filed claims for the weeks ending July 7 through August 18, 2007. The claimant received her maximum weekly benefit amount for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code section 96.5-1. The claimant voluntarily quit her employer on February 9 when she told the employer she was quitting in four weeks. The employer accepted the claimant's verbal resignation on February 9, 2007. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive unemployment insurance benefits. Iowa Code section 96.6-2.

The law presumes a claimant quits without good cause when she quits because of a personality conflict with a supervisor. 871 IAC 24.25(22). Harper was not the claimant's supervisor. Harper was the assistant manager, but the claimant believed Harper acted as though she were the supervisor instead of the claimant. For some reason Harper intimidated the claimant and Brown had even told the claimant to make a decision and act like a manager. After the claimant told the employer in December she could wait until February for the employer to resolve the problems she had with Harper, the issues between the claimant and Harper grew. The claimant became very anxious and became stressed over the situation between herself and Harper. The claimant had the authority to give Harper written warnings. The claimant did not do this because she concluded her written warnings would accomplish nothing. Unfortunately, by the time Brown arrived in February, the claimant had no more patience with the problems she encountered with Harper and incorrectly concluded the employer was not going to do anything to resolve the issues she had with or about Harper. The claimant's late February attempt to rescind her resignation, which the employer had previously accepted, supports the conclusion that the claimant realized she made a hasty and incorrect decision to quit. When the claimant asked to rescind her resignation, the employer had no legal obligation to let her withdraw her resignation and did not allow to rescind her resignation.

The claimant quit her employment on February 9 for personal reasons that do not qualify her to receive unemployment insurance benefits. As of July 1, 2007, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code section 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending July 7 through August 18, 2007. The claimant has been overpaid \$1,547.00 in benefits she received for these weeks.

DECISION:

The representative's July 23, 2007 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 1, 2007. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending July 7 through August 18, 2007. The claimant has been overpaid and must repay \$1,547.00 in benefits she received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs