

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA A SCHAUL
Claimant

APPEAL NO. 07A-UI-09669-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EMPLOYMENT SVCS LLC
Employer

OC: 09/02/07 R: 04
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

Heartland Employment Services, L.L.C., doing business as HRC/ManorCare (employer), appealed a representative's October 4, 2007 decision (reference 01) that concluded Laura A. Schaul (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 30, 2007. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Jane Link appeared on the employer's behalf and presented testimony from one other witness, Debbie Current. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on April 4, 2007. She worked full time as dietary aide in the employer's Dubuque, Iowa, long-term care nursing facility. Her last day of work was August 5, 2007. She was scheduled to work on that day from 6:30 a.m. to 2:00 p.m. She clocked out and left without permission or notification to anyone at about 10:45 a.m. When the next day Ms. Link, the human resources director, learned of the claimant's leaving and initiated contact with the claimant, the claimant indicated she had left because she felt she had been treated rudely.

The claimant's supervisor, Ms. Current, had also been working on August 5. There was a room in the center that needed to be cleaned by 10:00 a.m. so it could be used for a church service. At approximately 9:30 a.m., Ms. Current approached the claimant, who was smoking outside, and reprimanded her for being outside taking a smoking break at that time, indicating that they did not have time to be doing that then when the room still needed to be taken care of. The claimant did not verbally respond, but did return to duties inside the facility for slightly over an

hour. She then left without further communication with Ms. Current or other employees and was not present to assist in serving the noon meal, part of her assigned duties.

The claimant established a claim for unemployment insurance benefits effective September 2, 2007. The claimant has received unemployment insurance benefits after the separation from employment in the amount of \$370.00.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for 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 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The intent to quit can be inferred in certain circumstances. For example, leaving rather than performing duties as assigned is considered to be a voluntary quit. 871 IAC 24.25(27). The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). While the claimant's work situation was perhaps not ideal, she has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied her burden. Benefits are denied.

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.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's October 4, 2007 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of August 5, 2007, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw