

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHARON A JONES
Claimant

APPEAL NO. 07A-UI-04325-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILY DOLLAR SERVICES INC
Employer

OC: 04/01/07 R: 04
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

Family Dollar Services, Inc. (employer) appealed a representative's April 17, 2007 decision (reference 01) that concluded Sharon A. Jones (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 May 14, 2007. The claimant participated in the hearing. Sharon Beck 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.

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 November 11, 2002. She worked full time as a general warehouse worker in the employer's Maquoketa, Iowa, distribution center. Her normal work schedule was Monday through Thursday, 5:00 p.m. to 3:30 a.m. Her last day of work was March 21, 2007.

The claimant had been on a period of FMLA (Family Medical Leave) from January 4 through March 18, 2007, returning to work on March 19. When she returned, a new manager had been appointed over her area with whom she did not get along well. Since the reason for FMLA period was confidential as to anyone other than the necessary persons in human resources, the manager did not know the reason for the claimant's long absence, which happened to have been for her husband's medical issues. When the claimant returned from the leave, the new manager expressed surprise that she had been allowed to return to work. The claimant found the new manager's attitude to be sarcastic and offensive. However, she did not make any complaint to him or to human resources.

The claimant was then absent for a personal illness on March 22 and for the funeral of a relative on March 26. When she had called in regarding the absence for the funeral, she did not initially know for certain when the funeral would be, and did not call her new manager directly when she did get confirmation of the funeral arrangements. On March 27 she was going to report for work when the new manager reprimanded her for not contacting him personally on her absence for the funeral. The claimant was again offended by the manager's attitude and told him that she was going to resign. He responded, "You don't want to do this, you can't afford it." She was further offended that he was telling her what she wanted and what she could or could not afford, and further determined to quit. The manager again attempted several times to dissuade her from quitting, but she presented him and human resources with her written resignation effective immediately. Her stated reason for quitting was that she could not handle the stress of her husband's medical issues as well as the stress from work.

The claimant established a claim for unemployment insurance benefits effective April 1, 2007. The claimant has received unemployment insurance benefits after the separation from employment in the amount of \$1,456.00.

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 § 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 claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. 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 § 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 April 17, 2007 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of March 27, 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. The claimant is overpaid benefits in the amount of \$1,456.00.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw