

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LOLITA Y JONES
Claimant

APPEAL 17A-UI-01330-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

**OC: 01/01/17
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the January 25, 2017, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 27, 2017. Claimant participated. Employer participated through benefits specialist Mary Eggenburg and assistant director of human resources Tammy Showers.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 15, 2016. Claimant last worked as a full-time custodian I. Claimant was separated from employment on October 3, 2016, when she resigned.

At the end of September 2016, claimant was pregnant. Claimant's doctor restricted her from lifting over 20 pounds and working around harmful chemicals. Claimant informed her supervisor of the restrictions, but he informed her they could not be accommodated. Claimant decided to resign and relocate.

On September 26, 2016, claimant completed a form stating she was resigning because of a new job and relocation. Claimant did not have another job. On September 27, 2016, assistant director of human resources Tammy Showers met with claimant for an exit interview. Claimant gave relocation as her reason for resigning.

October 3, 2016, was claimant's last day of work. Claimant's medical restrictions have not been lifted, and claimant has not returned to employer to offer her services.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$2030.00, since filing a claim with an effective date of January 1, 2017, for seven weeks until the week ending February 18, 2017. The administrative record also establishes that the employer did participate in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without 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.

Iowa Admin. Code r. 871-24.25(2) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

Iowa Code § 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

In this case, claimant was unable to continue her employment due to medical restrictions imposed by her doctor because of her pregnancy. Employer could not accommodate the restrictions, so claimant resigned to relocate. As noted above, relocation is not a good cause reason for resignation that is attributable to employer. Furthermore, because claimant has not been released from her restrictions and has not returned to offer to perform services, she has not established she is qualified to receive benefits.

DECISION:

The January 25, 2017, (reference 01) unemployment insurance decision is reversed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as 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 has been overpaid unemployment insurance benefits in the amount of \$2030.00 and is obligated to repay the agency those benefits. The employer did participate in the fact-finding interview and its account shall not be charged.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/