

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

RACHELLE M WHITE
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WELLS FARGO BANK
C/o SHEAKLEY UNISERVICE INC
PO BOX 1160
COLUMBUS OH 43216-1160

WELLS FARGO BANK
C/o TALX EMPLOYER SERVICES
PO BOX 1160
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Appeal Number: 04A-UI-10538-BT
OC: 08/29/04 R: 03
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Wells Fargo Bank (employer) appealed an unemployment insurance decision dated September 17, 2004, reference 01, which held that Rachelle White (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 20, 2004. The claimant participated in the hearing. The employer participated through Debra Pauley and Heidi Karabatsos.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time lead teller from September 21, 1998 through August 2, 2004. She gave her notice of resignation after returning from vacation on August 2, 2004 with an effective date of August 13, 2004. The employer accepted her resignation and let her go immediately while paying out her last two weeks of employment. The claimant quit because she did not like the work environment and her supervisor. She had received numerous warnings and was on a final warning as of July 12, 2004.

The claimant filed a claim for unemployment insurance benefits effective August 29, 2004 and has received benefits after the separation from employment in the amount of \$2,170.00.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated her intent to quit and acted to carry it out when she verbally gave her resignation notice to both Debra Pauley and Heidi Karabatsos on August 2, 2004. The claimant contends she was fired on August 2, 2004 but the evidence demonstrates otherwise. The Administrative Law Judge has never heard of a situation in which an employer discharges an employee but then provides that employee with two weeks pay. Additionally, the claimant also received money for her PTO hours that she had accumulated, which is also not going to happen in a discharge situation.

The claimant has the burden of proving that the voluntary quit was for a good reason that would not disqualify her. Iowa Code section 96.6-2. The law presumes it is a quit without good cause attributable to the employer when an employee leaves because of a dissatisfaction with the work environment and a personality conflict with the supervisor. 871 IAC 24.25(21) and (22). The claimant has failed to establish her separation was with good cause attributable to the employer. 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 unemployment insurance decision dated September 17, 2004, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount 2,170.00.

sdb/pjs