

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA A STILES
Claimant

APPEAL NO: 11A-UI-04460-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

OC: 03/06/11
Claimant: Respondent (2-R)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(21) – Working Conditions
Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

The employer appealed a department decision dated March 31, 2011, reference 01, that held the claimant voluntarily quit with good cause attributable to her employer on February 21, 2011, and benefits are allowed. A telephone hearing was held on May 2, 2011. The claimant participated. Bob Rankin, Assistant General Manager; Dan Gerovac, Department Manager; and Mike Plautz, Second Shift Manager, participated for the employer. Employer Exhibits 1 - 5 was received as evidence.

ISSUES:

Whether the claimant voluntarily quit with good cause attributable to the employer.

Whether claimant is overpaid unemployment benefits.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time general laborer from May 7, 2009 to February 20, 2011. The claimant quit without notice on February 21.

Unbeknownst to the employer, claimant had lived with co-employee Stritz up to May or June 2010. There was an incident at work on February 20, 2011 where he stood in an aisle while claimant was driving her forklift at him when he stated "hit me". A empty cage flew off claimant's forklift when she came to an abrupt stop. Stritz was issued a warning for an unsafe act, and the employer intended to issue to claimant when she came to work the next day.

Claimant came to work on February 21 with the intention to quit. She was unhappy with Stritz and other employees not helping her and otherwise not doing their jobs. Claimant complained to her shift supervisors about the lack of support. The employer perceived she had some

emotional issues based on her complaints and behavior. Supervisors investigated claimant complaints and found they did not have merit.

Claimant has been receiving unemployment benefits on her unemployment claim.

REASONING AND CONCLUSIONS OF LAW:

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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to her employer due to a dislike of her work environment on February 21, 2011.

The evidence does not establish claimant was the subject of intolerable and/or detrimental working conditions. She had domestic issues with her former boyfriend co-worker (Stritz) that spilled over to the workplace. The employer was not made aware of the breakup and domestic relationship to the point it needed to take any special action.

Claimant's complaints that employees are not doing their job was investigated by the employer and found to be without merit. Claimant quit without notice because she did not like her work environment that is a personal issue not a good cause attributable to the employer.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

Since claimant has received unemployment benefits on her claim, the issue is remanded to Claims for a decision.

DECISION:

The department decision dated March 31, 2011, reference 01, is reversed. The claimant voluntarily quit without good cause attributable to her employer on February 21, 2011. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible. The overpayment issue is remanded.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css