

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LILLIE M LEVERETTE**  
Claimant

**APPEAL NO: 06A-UI-08240-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SDH SERVICES WEST LLC**  
Employer

**OC: 07/16/06 R: 02  
Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

SDH Services West LLC (employer) appealed a representative's August 11, 2006 decision (reference 01) that concluded Lillie M. Leverette (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the employer discharged the claimant for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 30, 2006. The claimant participated in the hearing with her attorney, Katherine Daman. Russ Moore, the general manager, 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.

**ISSUES:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer in 1973. In 2002 the claimant asked to work part time or three to four days a week. In November 2005, the claimant asked the employer to reduce her hours so she would only work two days a week. The claimant worked on the tray line. Amanda Koerselman supervised the claimant. Moore did not start working at the claimant's location until January 14, 2006.

On January 19, the claimant contacted Koerselman because she had received a letter from Benefits Concept congratulating the claimant on her retirement as of January 6, 2006. The claimant was upset because she assumed the employer was trying to force her to retire. The

letter also indicated the claimant no longer had health insurance with the employer's insurance carrier.

The employer had not changed the claimant's status from part-time to retired. As a result of reducing her hours to only two days a week, the claimant may not have been covered under the employer's health insurance. On January 25, 2006, Moore talked to Daman. They mutually concluded that someone had made a mistake when they sent a letter stating the claimant had retired when in fact she had not. Moore told Daman that the employer considered the claimant a valuable employee and did not want her to retire.

On January 26, the claimant submitted a letter to the employer. The letter indicated that she felt the employer forced her to retire as indicated in a January 19, 2006 letter. The claimant indicated she was retiring as of January 26, 2006.

The claimant established a claim for unemployment insurance benefits during the week of July 16, 2006. The claimant filed claims for the weeks ending August 12 and 19, 2006. The claimant received her maximum weekly benefit amount of \$187.00 for both these weeks.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The claimant made the decision to end her employment when she submitted her resignation letter on January 26, 2006. When a claimant voluntarily quits employment, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The law presumes a claimant voluntarily quits employment without good cause when she leaves to accept retirement when the claimant could have continued working. 871 IAC 24.25(24). The facts show the claimant could have continued working for the employer. The claimant chose instead to quit and retire because someone made a mistake on a letter she received on January 19 and she was no longer covered under the employer's health insurance when she reduced her hours to working just two days a week. The claimant established compelling personal reasons for quitting. Her reasons for quitting do not, however, qualify her to receive unemployment insurance benefits. As of July 16, 2006, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending August 12 and 19, 2006. The claimant has been overpaid \$374.00 in benefits she received for these weeks.

#### **DECISION:**

The representative's August 11, 2006 decision (reference 01) is reversed. The claimant voluntarily quit her employment on January 26, 2006, for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 16, 2006. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to

receive benefits for the weeks ending August 12 and 19, 2006. The claimant has been overpaid and must repay a total of \$374.00 in benefits she received for these weeks.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw