

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER M MOORER
Claimant

APPEAL NO. 10A-UI-14243-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOODWILL INDUSTRIES OF SE IOWA
Employer

OC: 09/12/10
Claimant: Respondent (2-R)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Goodwill Industries of Southeast Iowa filed an appeal from a representative's decision dated October 8, 2010, reference 01, which held that no disqualification would be imposed regarding Jennifer Moorer's separation from employment. After due notice was issued, a hearing was held by telephone on November 30, 2010. The employer participated by Kelly Gaul-Houser, Director of Human Resources, and Luther Batte, Store Manager. The employer was represented by Mary Kating of Cambridge Integrated Services Group. Exhibits One and Two were admitted on the employer's behalf. Ms. Moorer responded to the notice of hearing but was not available at the number provided at the scheduled time of the hearing.

ISSUE:

At issue in this matter is whether Ms. Moorer was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Moorer began working for Goodwill on January 16, 2010 as a full-time production clerk. She reported a work-related injury on August 20 and was released back to work on August 27. She had work restrictions that were accommodated by the employer.

Ms. Moorer's last day at work was September 6. She called on September 8 to report that she would be absent due to an injury. She did not report for work or contact the employer on September 9, 11, or 12. She was scheduled off on September 10. When the employer had not heard from her, a certified letter was sent on September 13 and signed for by Ms. Moorer on September 14. The letter advised that she no longer had employment with Goodwill. She did not contact the employer in response to the letter. The employer has a written work rule, which provides that three consecutive unreported absences will be deemed a voluntary quit. Ms. Moorer received the handbook containing the policy on January 20, 2010. Continued work would have been available if she had continued reporting.

Ms. Moorer filed a claim for job insurance benefits effective September 12, 2010. She has received a total of \$1,510.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

Ms. Moorer abandoned her job when she stopped reporting for available work without notice to the employer. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Moorer did not participate in the hearing to explain why she stopped going to work or contacting the employer. The evidence of record does not establish any good cause attributable to the employer. Therefore, benefits are denied.

Ms. Moorer has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

DECISION:

The representative's decision dated October 8, 2010, reference 01, is hereby reversed. Ms. Moorer voluntarily quit her employment without good cause attributable to the employer. Benefits are denied until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Ms. Moorer will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css