

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

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ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-00045-DT
OC: 11/27/05 R: 02
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 Leaving
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Kum & Go, L.C. (employer) appealed a representative's December 21, 2005 decision (reference 01) that concluded Kathleen M. Thede (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 19, 2006. The claimant participated in the hearing. Sally Hoyle 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.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on September 29, 2003. She worked full time as sales manager in the employer's Churdan, Iowa, convenience store. Her last day of work was November 21, 2005. She voluntarily quit effective that day. Her reason for quitting was a growing displeasure regarding things that the general manager, Ms. Hoyle, said about and to her in both social and work settings.

The claimant and Ms. Hoyle had been close friends both socially and at work. That began to change, at least from the claimant's standpoint, in the fall of 2004 when at a family party at the claimant's house Ms. Hoyle had discussion with some guests regarding the claimant's daughter that ended up coming back to the daughter's ex-husband and caused some problems regarding child custody for the claimant's daughter. The claimant and Ms. Hoyle had an argument about what had happened at that time and then reconciled, but the claimant did not have the same level of trust in Ms. Hoyle as she had previously.

In the late summer or early fall of 2005, the claimant and Ms. Hoyle had gone out after the claimant won a contest in the store; the next morning when the claimant came in, she was unhappy that Ms. Hoyle was telling a customer about their night and commenting that she had bought everything. The claimant rejoined that she had bought some things also, but she did not otherwise share with Ms. Hoyle that she did not think she should have been discussing their social life with a stranger.

On November 18, 2005 Ms. Hoyle had just returned from a management meeting and was trying to explain to the claimant various procedures and guidelines that she had learned during the meeting. In part, those procedures and guidelines pertained to the bookkeeping procedure that the claimant had been following, and Ms. Hoyle was trying to explain how the claimant's practices differed from what had been taught at the management meeting. The claimant was arguing that she had been doing the books in the other way for a year and half without problem. There was a customer in the store for at least a significant portion of the discussion, and during at least the final portion of the discussion had approached the counter where the claimant and Ms. Thede stood. The two went back and forth a bit more as to whether the claimant's register reports had been off due to the difference in procedure or not, but ultimately Ms. Hoyle stated firmly that the new procedure was how it was to be done and so the claimant was to do it that way.

The final incident was on November 21, 2005. The claimant and Ms. Hoyle had worked together much of the day without incident. In the late afternoon, Ms. Hoyle's husband came in while Ms. Hoyle was preparing to do a safe drop. As Ms. Hoyle was speaking with her husband, the claimant started to take over doing the safe drop for Ms. Hoyle. Ms. Hoyle protested and indicated that doing the safe drop was her responsibility and that she would do it. The claimant became upset and announced that she had had enough, she was quitting. After a few more words, the claimant left. Ms. Hoyle called her later that evening and asked her to reconsider; however, the claimant stayed with her decision to quit and turned her keys in to an assistant manager.

The claimant established a claim for unemployment insurance benefits effective November 27, 2005. The claimant has received unemployment insurance benefits after the separation from employment in the amount of \$642.00.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

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 provides that, 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 claimant did express her intent not to return to work with the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). While the claimant's work situation was perhaps not ideal, she has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied her burden. 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 representative's December 21, 2005 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of November 27, 2005, benefits are withheld until such time as the claimant 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 is overpaid benefits in the amount of \$642.00.

ld/tjc