

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERRIL L HARRIS
Claimant

APPEAL NO: 07A-UI-05597-DW

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARTERS LEASING INC
Employer

OC: 05/06/07 R: 03
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

Carters Leasing, Inc. (employer) appealed a representative's May 24, 2007 decision (reference 01) that concluded Sherril L. Harris (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit her employment for reasons that qualified her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, an in-person hearing was held on July 10, 2007, in Cedar Rapids. The claimant participated in the hearing. James Affeldt, attorney at law, represented the employer. Joan Carter, the manager and co-owner, Ted Carter, an owner, Garry Davidson, and Jan Varmer, the dispatcher, testified 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?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in August 2004. At the time of her employment separation, the claimant worked full time as the employer's head bookkeeper. Joan Carter supervised the claimant.

During her employment, the claimant concluded Carter belittled her and told the claimant at various times that the claimant was inadequate or did not know what she was doing. Carter and the claimant did not always see eye-to-eye about various procedures. When Carter questioned the claimant or told the claimant to do a procedure another way, the claimant argued or stood up for the way she believed the work should be done. Ultimately, the claimant followed Carter's directives. When the claimant and Carter did not agree, Carter sometimes raised her voice at

the claimant. Although the claimant did not like the way Carter confronted her about various issues, the claimant did not tell Carter that she felt Carter harassed her. The claimant was not afraid to express her views, but she never said anything to her co-workers that she felt the employer verbally harassed her.

Employees, who worked with the claimant, did not believe Carter treated the claimant any differently from anyone else. No one knew the claimant was so dissatisfied with the work environment that she would quit.

On May 10, 2007, the claimant made a comment that Carter was a kleptomaniac. Even though the claimant was not serious when she made the remark in the office, Carter heard her and became very upset about the remark. Carter did not say anything to the claimant while other employees were at work. After everyone was gone but the claimant and Carter, Carter told the claimant that she would never again call her or any of her family members a derogatory name. The claimant apologized for her earlier remark, but Carter did not appear to accept her apology. Carter remained upset with the claimant and may have raised her voice. In the claimant's opinion, Carter had never been as upset with her as she was on May 10, 2007. Carter's conduct on May 10 was out-of-the ordinary. As a result of this incident the claimant decided to quit because she could no longer work with Carter. The claimant concluded that Carter did not appreciate her work and the claimant did not like anyone yelling or talking in a raised voice to her. On May 10, the claimant picked up her belongings and told Carter she was quitting. The claimant did not return to work.

The claimant established a claim for unemployment insurance benefits during the week of May 6, 2007. The claimant filed claims for the weeks ending May 19 through July 7, 2007. The claimant received her maximum weekly benefit amount of \$334.00 for each of 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 attributable to the employer. Iowa Code section 96.5-1. The claimant voluntarily quit her employment on May 10, 2007. When a claimant quits, she has the burden to establish she quit her employment for reasons that qualify her to receive unemployment insurance benefits. Iowa Code section 96.6-2.

The law presumes a claimant voluntarily quits employment with good cause if she leaves employment because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The law also presumes a claimant voluntarily quits employment without good cause if she leaves employment because of a personality conflict with a supervisor. 871 IAC 24.25 (22). The facts establish that from the claimant's perspective the employer belittled, criticized and humiliated her by disagreeing with the way the claimant performed part of her job, told the claimant to make some corrections and when Carter raised her voice at the claimant in frustration when the claimant did not appear to listen or accept the employer's directions.

Carter had no idea the claimant felt Carter harassed her. Carter did not treat the claimant any differently than she treated any other employee. The claimant never told Carter that she did not like the way Carter talked to her at times. On May 10, Carter was upset by the claimant's off-hand comment. When Carter expressed her views after everyone else was gone, she was upset with the claimant and raised her voice at the claimant. The claimant was somewhat surprised by Carter's reaction and became frustrated and upset with Carter's comments and demeanor. The claimant basically considered Carter's comments and raised voice as harassment, which the claimant decided she could not handle. Even though this was the first

time Carter had treated the claimant in the way she did on May 10, the claimant quit without even telling the employer there were problems between the two of them. Under these facts and based on the claimant's perception, she established compelling personal reasons for quitting. While the employer could have been more perceptive about the claimant's feelings, the facts do not establish that the claimant worked under intolerable or detrimental working conditions. There were times the claimant and the employer did not agree, but this is not unusual in an office setting. The claimant did not establish that she quit for reasons that qualify her to receive unemployment insurance benefits. As of May 6, 2007, 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 section 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending May 19 through July 7, 2007. The claimant has been overpaid \$2,672.00 in benefits she received for these weeks.

DECISION:

The representative's May 24, 2007 decision (reference 01) is reversed. The claimant voluntarily quit her employment for compelling personal reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 6, 2007. 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 May 19 through July 7, 2007. The claimant has been overpaid and must repay a total of \$2,672.00 in benefits she received during these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs