

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDA S SAVAGE**  
Claimant

**APPEAL NO. 09A-UI-14878-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CALERIS INC**  
Employer

**Original Claim: 08/20/09  
Claimant: Respondent (2-R)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The employer, Caleris, filed an appeal from a decision dated September 25, 2009, reference 01. The decision allowed benefits to the claimant, Linda Savage. After due notice was issued, a hearing was held by telephone conference call on November 3, 2009. The claimant participated on her own behalf. The employer participated by Human Resources Supervisor Heidi Brodersen, Manager Shanda Kozal, and Executive Director Stacey Springer. Exhibit One admitted into the record.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Linda Savage was employed by Caleris from May 16, 2008 until August 5, 2009 as a full-time content manager. On August 5, 2009, Ms. Savage came into the office of Manager Shanda Kozal and said, "I can't do this anymore, my meds are not regulated and I haven't been sleeping well." That morning Lead Person Paul Costello gave the claimant a written warning for missing some pornographic material uploaded onto the web site of one of the employer's clients. It was her job duty to monitor pictures being uploaded onto the web site and to prevent any inappropriate material from being posted. This was just a warning, her job was not in jeopardy and Mr. Costello conducted the disciplinary session in a professional manner without using bad language, name-calling, threats, or a loud tone of voice.

Ms. Savage does suffer from panic attacks. At no time had she provided the employer with any documentation from a physician requiring any special accommodations for her condition.

Linda Savage has received unemployment benefits since filing a claim with an effective date of August 30, 2009.

## 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(28) 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:

(28) The claimant left after being reprimanded.

The claimant quit because she had received a written reprimand that morning from her lead person. Under the provisions of the above Administrative Code section, this does not constitute good cause attributable to the employer.

She also alleged certain problems with Executive Director Stacey Springer "watching" her while she worked, and alleged an "assault" over 18 months prior to her quitting when Ms. Springer had put her hand on the claimant's shoulder, one on the back of her chair, and turned the chair around. Ms. Savage did not complain about this to her supervisor or the human resources department. The administrative law judge considers this incident to have occurred too remote in time to the separation to be considered in the reasons precipitating the resignation. As for Ms. Springer "watching" the claimant, she did only that, nothing more. There is nothing inappropriate or unprofessional in the executive director watching employees while they perform their jobs.

In addition, the claimant had a medical problem but her doctor had not imposed any special accommodations that the employer was asked to provide. In order for good cause attributable to the employer to exist, a claimant with grievances must make some effort to give the employer an opportunity to work out whatever problem led to the grievance. By not giving notice to the employer of the circumstances causing the decision to quit employment, the claimant failed to give the employer an opportunity to make adjustments which would alleviate the need to quit. *Denby v. Board of Review*, 567 P.2d 626 (Utah 1977). "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Florida App. 1973).

The claimant quit without good cause attributable to the employer and she is disqualified.

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.

The claimant has received unemployment benefits to which she is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

**DECISION:**

The representative's decision of September 25, 2009, reference 01, is reversed. Linda Savage is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw