

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARY E GREEN**

Claimant

**APPEAL NO. 08A-UI-10109-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NATIONAL BANKRUPTCY SRVS.COM**

Employer

**OC: 09/21/08 R: 02  
Claimant: Respondent (2-R)**

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

**STATEMENT OF THE CASE:**

National Bankruptcy Services.com (NBS) filed an appeal from a representative's decision dated October 20, 2008, reference 01, which held that no disqualification would be imposed regarding Mary Green's separation from employment. After due notice was issued, a hearing was held by telephone on November 17, 2008. Ms. Green participated personally. The employer participated by Debbie Hensley, Bankruptcy Auditing Supervisor; Kim Willis, Human Resources Coordinator; and Mindy Sebastian, Bankruptcy Manager. Exhibit One was admitted on the employer's behalf.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Green was employed by NBS from April 24 until September 25, 2008 as a bankruptcy auditor. She worked approximately 32 hours each week. She voluntarily quit the employment due to stress but was not advised by a doctor to leave. She felt frustrated in the performance of her job because of frequent changes. The employer felt her job performance was satisfactory. She was not disciplined for any errors she made, as the employer recognized that errors would occur because of the frequent changes.

The type of information Ms. Green was expected to input during audits was determined by the employer's clients. If the client requested changes, the employer was required to implement them. Because the business was relatively new, there were frequent changes as customers decided what information would best serve their needs. The employer made good-faith attempts to notify the auditors as changes were made. If Ms. Green was not at work when the changes were announced, an email would be sent advising of the changes. She sometimes had to go to her supervisor, Debbie Hensley, when she had questions. Ms. Hensley would sometimes ask her to wait while she finished work she was involved with and sometimes

directed her to others with her questions. She never refused to provide Ms. Green with the assistance she requested.

Ms. Green's decision to quit was prompted by comments made by the bankruptcy manager on September 24. The manager indicated that the auditors would be expected to do two audits each day. She indicated that they would still be expected to average two per day even if they took a day off for vacation. Ms. Green felt this would increase her workload and, therefore, decided to quit. When she told Ms. Hensley she was quitting, she was asked if there was anything the company could do to change her mind. She was also offered the opportunity to address her concerns with the bankruptcy manager. Ms. Green declined. Continued work would have been available if she had not quit.

Ms. Green filed a claim for job insurance benefits effective September 21, 2008. She has received a total of \$2,732.00 in benefits since

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

An individual who voluntarily quits employment 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. Green quit because of stress and frustration. She was not advised by a doctor to leave the employment because of work-related stress. The administrative law judge appreciates that she may have been frustrated by the frequent changes in how she performed her job. However, the changes were dictated by the employer's customers. Moreover, the employer had explained at the time of hire that the business was new and there might be frequent changes as it settled into a routine.

When she told the employer she was quitting, she was asked if there was anything the employer could do to change her mind about quitting. She was also given the opportunity to meet with the bankruptcy manager to discuss her concerns. The employer may well have been able to make changes that were satisfactory to Ms. Green and thereby eliminate the need for her to quit. However, she declined to suggest to Ms. Hensley any changes she felt would enable her to stay. She declined the opportunity to talk with the bankruptcy manager about her concerns, including the requirement that she do two audits each day including days she was on vacation.

The administrative law judge concludes that Ms. Green deprived the employer of a reasonable opportunity to try to salvage the employment relationship. Since the employer was not on notice that she was contemplating quitting because of work-related matters, the employer did not know that certain changes had to be made in order for Ms. Green to continue in the employment. Because the employer had no opportunity to correct the problems that were causing Ms. Green to quit, it is concluded that her quit was not for good cause attributable to the employer. Therefore, benefits are denied.

Ms. Green has received benefits since filing her claim. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If an 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. Benefits 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 Ms. Green will be required to repay benefits already received.

**DECISION:**

The representative's decision dated October 20, 2008, reference 01, is hereby reversed. Ms. Green quit her employment with NBS without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. This matter is remanded to Claims to determine the amount of any overpayment and whether Ms. Green will be required to repay benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw