

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA J MATHES
Claimant

APPEAL NO. 13A-UI-10196-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC
Employer

OC: 09/23/12
Claimant: Respondent (2-R)

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

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 28, 2013, reference 04, that concluded the claimant voluntarily quit with good cause attributable to the employer. A telephone hearing was held on October 2, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Ruth Castor participated in the hearing on behalf of the employer with a witness, Laurie Simmons.

ISSUES:

Did the claimant voluntarily quit employment without good cause attributable to the employer?
Was the claimant overpaid unemployment insurance benefits and is she required to repay the overpayment?

FINDINGS OF FACT:

The claimant worked full time for the employer as a warehouse worker from February 12, 2013, to July 9, 2013.

The claimant came into the office on July 10, 2013, and requested a voluntary quit form, which she completed and provided to the account manager. She did not state why she was quitting on the form or verbally to management. She never informed anyone about any problem with working conditions before quitting her job.

The claimant reopened her claim for unemployment insurance benefits effective August 4, 2013. The employer is not a base period employer on the claim. The claimant was paid \$616 in benefits between August 4 and August 31, 2013. Those benefits were used to offset a previously established overpayment.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The evidence establishes the claimant voluntarily quit employment and the evidence fails to show any good cause attributable to the employer for quitting. She is disqualified effective August 4, 2013.

The unemployment insurance law requires benefits to be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. But the overpayment will not be recovered when an initial determination to award benefits is reversed on appeal on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. Iowa Code § 96.3-7. In this case, the claimant was paid benefits, which were used to offset an overpayment, but was ineligible for those benefits. The claimant was overpaid \$616 in benefits. The matter of deciding whether the overpayment should be waived based on the employer's participation or failure to participate in the fact-finding interview is remanded to the agency.

DECISION:

The unemployment insurance decision dated August 28, 2013, reference 04, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant was overpaid \$616 in benefits. The matter of deciding whether the overpayment should be recovered based on the employer's participation or failure to participate in the fact-finding interview is remanded to the agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs