

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TRACI DAVIES**  
Claimant

**APPEAL NO. 12O-UI-01482-WT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MJHIAL CORPORATION**  
Employer

**OC: 9/25/11  
Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated October 20, 2011, reference 01, which held claimant eligible for unemployment insurance benefits. A hearing was held on December 8, 2011. On the same date, an administrative law judge held that the employer did not timely protest the claimant's claim. The employer appealed this decision to the Employment Appeal Board. On February 10, 2012, the Board reversed the determination of the administrative law judge and found the protest timely. After due notice, a new telephone conference hearing on the merits was scheduled for and held on March 27, 2012. Employer participated by Manager, Inder Dhillon. Claimant failed to respond to the hearing notice and did not participate.

**ISSUES:**

The issues in this matter are whether the claimant quit for good cause attributable to the employer and whether claimant is overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer in August 2010. During that timeframe, the claimant walked off the job due to a conflict with a co-worker. Claimant filed a claim for benefits in September 2011, which included this employer in the base period. According to agency wage records, the claimant earned ten times her weekly benefit amount following her separation with this employer. The claimant was paid three weeks of benefits in October 2011.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to the employer when claimant terminated the employment relationship due to a dispute with a co-worker.

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.

The next issue concerns an overpayment of unemployment insurance benefits.

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.

This matter shall not be remanded to the Claims Section for determination of an overpayment because the claimant has earned ten times her weekly benefit amount following her separation from this employer. Iowa Code section 96.5(1)(g) (2011).

**DECISION:**

The decision of the representative dated October 20, 2011, reference 01, is reversed. The employer's account shall not be charged. There is, however, no overpayment for the reasons set forth in the conclusions above.

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Joseph L. Walsh  
Administrative Law Judge

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Decision Dated and Mailed

jlw/css