

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ABBY J HEILMAN**

Claimant

**APPEAL NO. 13A-UI-04139-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERICAN HOME SHIELD CORP**

Employer

**OC: 03/10/13**

**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 March 28, 2013, reference 01, that concluded the claimant resigned after she was forced to resign or be discharged. A telephone hearing was held on May 14, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Tom Kuiper participated in the hearing on behalf of the employer with witnesses, Amy Platt and Karen Kennebeck. Exhibit One was admitted into evidence at the hearing.

**ISSUES:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

Was the claimant overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a dispatch associate from January 31, 2011, to January 24, 2013. She was a medical leave after January 24, 2013.

The claimant voluntarily quit her job on March 1, 2013, when her request for leave under the Family and Medical Leave Act (FMLA) was denied based on her failure to provide the necessary certification from her medical health provider. She was never told that she had to resign or she would be fired. In fact, the employer had other forms of leave available. She told her supervisor on March 1 that she was quitting to work part time at FedEx rather than deal with the paperwork required for the leave.

The claimant filed for and received a total of \$1,740.00 in unemployment insurance benefits for the weeks between March 10 and April 20, 2013.

**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 quit employment for reasons not attributable to the employer. She was not told that if she did not resign she would be fired. She 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 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. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

**DECISION:**

The unemployment insurance decision dated March 28, 2013, reference 01, 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 matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css