

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**NATALIE A SCHEERER
1506 GRANDVIEW PLAZA APT 26
PAPILLION NE 68046**

**GOODKIND & GOODKIND DIRECT INC
300 LOCUST ST
CARTER LAKE IA 51510**

**Appeal Number: 06A-UI-00495-S2T
OC: 12/18/05 R: 01
Claimant: Respondent (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit
Section 96.5-2-a – Discharge for Misconduct
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Goodkind & Goodkind Direct (employer) appealed a representative's January 10, 2006 decision (reference 01) that concluded Natalie Scheerer (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 9, 2006. The claimant participated personally. The employer participated by Philip Nickisch, Senior Vice President.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on September 29, 2004, as a full-time quality assurance and training supervisor. When the claimant was first hired she disliked the way the employer reprimanded her. She felt threatened by the intensity of emotions the employer expressed. The claimant told the Senior Vice President that she wanted to quit. The Senior Vice President told the claimant that it was part of the employer's personality to become upset from time to time. The Senior Vice President considered the claimant to be overly sensitive to the employer's reprimand.

On or about October of 2005, the claimant did not properly perform her job and the employer reprimanded the claimant. The claimant told the employer that the employer did not have to treat her like a child. The claimant understood she had made a mistake.

On December 15, 2005, the employer was giving a client a tour of the facility when the claimant made the same error in performance as she did in October 2005. The client had the potential to give the employer tens of millions of dollars of income. The claimant's performance compromised the employer deal with the client.

The employer was clearly upset by the claimant's actions and reprimanded her by indicating the claimant had to be treated like a child in order for her to perform the necessary functions of her job. The claimant said she did not have to take the employer's reprimand and quit work.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer. For the following reasons the administrative law judge concludes she did.

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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she was leaving and quit work. "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). When an employee quits work after having been reprimanded, her leaving is without good cause attributable to the employer. The employer was reasonably upset by the claimant's actions. The claimant was overly sensitive to the employer's reprimand. The claimant left work after having been reprimanded. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The claimant has received benefits in the amount of \$1,967.00 since filing her claim herein. Pursuant to this decision, those benefits now constitute an overpayment which must be repaid.

DECISION:

The representative's January 10, 2006 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant is overpaid benefits in the amount of \$1,967.00.

bas/kjw