

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE BAKER
Claimant

APPEAL NO: 07A-UI-07225-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEKSYSTEMS INC
Employer

**OC: 06/17/07 R: 03
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Teksystems, Inc. (employer) appealed an unemployment insurance decision dated July 17, 2007, reference 03, which held that Julie Baker (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 29, 2007. The claimant provided a telephone number but was not available when that number was called for the hearing, and therefore, did not participate. The employer participated through Emily Flowergarden, IT Recruiter. Employer's Exhibit One was admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time remedy coordinator for this information technology staffing firm from September 5, 2006 through June 1, 2007. The employer provides staff to other companies on a contract basis and often the jobs are temp to hire positions. The contracts usually last from six months to a year. The claimant began an assignment with Aegon on September 5, 2006 and the contract ran through September 5, 2007. She interviewed for an internal position and felt her supervisor was grooming her for the job but she was not chosen. Her supervisor told her there was no longer an opportunity for her but would gladly keep her on until September 2007. The claimant felt uncomfortable in the work environment after this and voluntarily quit without even giving two weeks' notice.

The claimant filed a claim for unemployment insurance benefits effective June 17, 2007 and has received benefits after the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by telling the employer and the contractor that June 1, 2007 would be her last day. Her contract at Aegon was not completed at the time she left and continuing work was available. She quit because she was no longer comfortable when she was not chosen for a job she wanted.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2. While the claimant may have had compelling personal reasons for quitting her employment, her separation cannot be attributed to the employer. Benefits are denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The unemployment insurance decision dated July 17, 2007, reference 03, 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 \$720.00.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs