

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TWYLA D MEAD
Claimant

APPEAL NO. 12A-UI-04404-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY & FAMILY RESOURCES
Employer

OC: 03/25/12
Claimant: Respondent (2-R)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Community & Family Resources filed a timely appeal from a representative's decision dated April 16, 2012, reference 01, which held the claimant eligible to receive unemployment insurance benefits. After due notice was issued, a telephone hearing was held on May 10, 2012. The claimant participated. The employer participated by Mr. John Hostetler, executive director/acting manager, and Michelle De La Riva, clinical director.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Twyla Mead was employed by Community & Family Resources from August 1, 2008, until March 26, 2012, when she left employment without advance notice. Ms. Mead most recently held the position of full-time office coordinator and support staff supervisor.

Ms. Mead left her employment with Community & Family Resources due to dissatisfaction with progress that was being made in supplementing documentation from an independent provider into billing files for clients of Community & Family Resources. The claimant had brought the issue of missing documentation to the attention of both Mr. Hostetler, the executive director, and Ms. De La Riva, the clinical director, and an action plan had been developed to assist the organization in updating and completing files.

Because the claimant considered the delays to be having a detrimental effect on the services being offered to some adolescent consumers and because the claimant felt the previous billing being submitted without documentation may have been unethical, Ms. Mead left her employment on March 26, 2012. Prior to leaving the employment, the claimant did not inform company management that she was going to leave if specified changes were not made. The claimant also did not file a grievance about any work-related issues. At the time of the

claimant's leaving, the employer believed that satisfactory progress was being made and had no idea that Ms. Mead was considering leaving her work.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes the claimant left employment with good cause attributable to the employer. It does not.

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.

An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaints. See Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if the conditions persist in order to preserve eligibility for benefits. See Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991). Claimants are not required to give notice of intention to quit due to intolerable, detrimental, or unsafe working environments if the employer had or should have had reasonable knowledge of the condition. See Hy-Vee, Inc. v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2005). The test as to whether a claimant left due to intolerable or detrimental working conditions is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993).

The evidence in the record establishes that although Ms. Mead had serious personal concerns about the lack of documentation in some billing that was being submitted by her employer, the claimant bore no personal responsibility for any omissions of acts of the independent service providers who were to supply the documentation. The evidence also establishes that after Ms. Mead brought the matter to the attention of management, management immediately responded and instituted an action plan to recover and to supplement the files when necessary. The employer believed that satisfactory progress was being made, and the claimant did not give the employer any indication that she would quit her employment if any additional changes were not being implemented. Ms. Mead did not file a grievance or inform the employer that she believed that the progress was not satisfactory and/or that lack of satisfactory progress would cause her to quit her job.

While the claimant's reasons for leaving may have been good from her personal viewpoint, the administrative law judge concludes, based upon the evidence in the record, that the claimant's reasons were not good-cause reasons attributable to the employer. Unemployment insurance benefits are withheld.

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.

The issue of whether the claimant must repay unemployment insurance benefits is remanded to the Unemployment Insurance Services Division for a determination.

DECISION:

The representative's decision dated April 16, 2012, reference 01, is reversed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The issue of whether the claimant must repay unemployment insurance benefits is remanded to the Unemployment Insurance Services Division for a determination.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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