

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDA K AUSTIN**  
Claimant

**APPEAL NO. 06A-UI-05381-N**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L E VICTORA**  
**CASS COUNTY ANIMAL CLINIC**  
Employer

**OC: 04-30-06 R: 01**  
**Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

The employer, Cass County Animal Clinic, appealed a representative's May 16, 2006, reference 01, decision that concluded the claimant, Linda K. Austin, was qualified to receive unemployment insurance benefits and found the employer's subject to charge upon a finding that the claimant voluntarily left her employment because working conditions were detrimental. After hearing notices were mailed to the parties, a hearing was conducted in Council Bluffs, Iowa on October 10, 2006. The claimant appeared and testified. Appearing on behalf of the employer was Mr. Martin Fisher, Attorney at Law. Appearing as a witness was the company owner, Dr. Larry Victora, DVM. Employer's Exhibits One and Two were received into evidence.

**ISSUES:**

Did the claimant voluntarily quit employment for reasons that qualify her to receive unemployment insurance benefits? Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Linda Austin was employed by Cass County Animal Clinic from September 26, 2004 until April 27, 2006. The claimant held the position of bookkeeper and general clinic assistant. Ms. Austin was employed on a full-time basis and was paid by the hour. The claimant's immediate supervisor was Dr. Larry Victora, DVM.

Ms. Austin left her employment with the captioned employer on April 27, 2006 after receiving a mild reprimand from her employer regarding the scheduling of a canine dental appointment. "Dental appointments" are generally appointments for preventative tooth maintenance or minor dental issues. Due to the size of the dog, the dog's age and previous dental issues, Dr. Victora felt that the claimant knew or should have known that a potential tooth extraction was necessary and due to the animal's condition the procedure could be lengthy. Because of other scheduling that day, Dr. Victora indicated that the extraction had to be rescheduled and stated on at least

two occasions that the claimant “should have known better.” Ms. Austin felt that the statement was unjustifiably critical of her and left her employment.

Ms. Austin had become generally dissatisfied with her employment for a number of reasons including the decision by the doctor not to euthanize a cat in the past although its owners believed that the action had taken place. In addition, the claimant felt that Dr. Victora had been over critical at times when staff had made errors and that the doctor had not shown enough concern when employees had suffered bites or minor wounds while performing their duties. Ms. Austin also believed that statements previously made by Dr. Victora in a jesting manner were inappropriate.

The claimant was aware of the general nature of the duties required in a veterinary clinic but had no previous veterinary clinic experience. When a mistake was made by the claimant or other workers, it was Dr. Victora’s practice to point out errors and instruct employees on the proper technique or procedure. Work continued to be available to the claimant at the time that she chose to leave employment.

#### **REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence in the record establishes that Ms. Austin voluntarily quit employment for reasons that were compelling and 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.

Ms. Austin left her employment with the Cass County Animal Clinic on April 27, 2006 after receiving a mild reprimand from Dr. Victora, DVM, the clinic owner, for failing to recognize the dental procedure on a large, elderly dog might be more complicated and time consuming than scheduling that day allowed. The evidence does not show that Dr. Victora was inappropriate in the words that he used or the demeanor that he displayed. As a method of bringing the claimant’s attention to the error and focusing the claimant’s attention on the other factors that needed to be considered when scheduling an appointment Dr. Victora stated on at least two occasions, “You should have known better.” The administrative law judge finds the reprimand issued by the clinic owner to be job related and reasonable based upon the circumstances that day. The evidence does not establish that Ms. Austin was unreasonably humiliated, subjected to inappropriate language or an unreasonable demeanor by Dr. Victora.

The evidence establishes that Ms. Austin had become generally dissatisfied with her employment for a number of reasons, many of which related to the claimant’s desire to substitute her judgment for that of the doctor of veterinary medicine and owner of the clinic. The question before the administrative law judge in this case is not whether Ms. Austin had a right to quit her employment but whether the reasons for her leaving were attributable to her employer and of such a nature to make the claimant’s leaving necessary or compelling. The administrative law judge finds that they do not. The mild reprimand issued on April 27, 2006 was not of such a nature so as to provide good cause for leaving.

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.

The claimant has received benefits to which she was not entitled.

**DECISION:**

The representative's May 16, 2006, reference 01, decision is reversed. The claimant voluntarily quit employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided that she is otherwise eligible. The claimant has been overpaid \$1,530.00.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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