

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SUADA BOSKOVIC**

Claimant

**APPEAL NO. 06A-UI-11064-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FERGUSON ENTERPRISES INC**

Employer

**OC: 10/01/06 R: 03  
Claimant: Respondent (2)**

Section 96.5-1 - Voluntary Quit  
Section 96.3-7 - Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated November 2, 2006, reference 01, that concluded the claimant voluntarily quit employment with good cause. A telephone hearing was held on December 12, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of an interpreter, Zijo Suceksa. Debra Damge participated in the hearing on behalf of the employer.

**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 part-time for the employer as a packer from May 15, 2006, to October 4, 2006. The claimant suffered an injury at work on August 14, 2006, when a box pinched her left wrist while it was going down a conveyor belt. The claimant was treated by a doctor for her injury and was off work until September 6, 2006.

On September 6, the claimant was released to work light duty work by her doctor. Her doctor restricted to work involving the use of her right hand only. The employer accommodated the restriction by giving her a job that involved putting labels on plastic bags, which was a job that involved using just one hand. The claimant worked under those restrictions on September 6. On September 7, the claimant was having problems with pain so she left work early and went back to the doctor. The doctor added the additional restriction of making sure that she kept her left elbow at her side.

The claimant returned to working in the labeling job but left work early nearly everyday complaining of pain in her arm. The claimant's work restrictions, however, did not change and the type of work the employer offered the claimant was within her doctor's restrictions.

The claimant notified the employer on October 4, 2006, by leaving a voicemail that she was quitting work due to health reasons. There is no evidence that the claimant was advised by a doctor to leave employment. There is no medical evidence that it was impossible for the claimant to continue in employment because of a serious health danger. She has not offered to return work since she left on October 4.

The claimant filed for and received a total of \$870.00 in unemployment insurance benefits for the weeks between October 1 and December 9, 2006.

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

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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.

The unemployment insurance rules provide that a claimant is qualified to receive benefits if compelled to leave employment due to a medical condition related to her employment. The rules require a claimant: (1) to present competent evidence that conditions at work caused or aggravated the medical condition and made it impossible for the claimant to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related medical condition and that she intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant has not met the conditions required to receiving unemployment insurance benefits. Although the evidence establishes the claimant was injured on the job, she has not satisfied the other conditions since there is no medical evidence that continued employment would result in serious danger to her health. The employer was providing work that met the employer's medical restrictions. No doctor advised the claimant to leave employment. Good cause to leave employment has not been proven in this case.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits effective and was overpaid \$870.00 in benefits.

**DECISION:**

The unemployment insurance decision dated November 2, 2006, 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 claimant was overpaid \$870.00 in unemployment insurance benefits, which must be repaid.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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