

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**THERESA A MACK**  
Claimant

**APPEAL NO: 12A-UI-09749-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DEERY BROTHERS INC**  
Employer

**OC: 07/15/12**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's August 6, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant voluntarily quit her employment for reasons that qualify her to receive benefits. The claimant participated in the hearing. Jackie Nolan, a representative with Employers Unity, appeared on the employer's behalf. Ron Bennett, the fixed operations manager, testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer in August 2004. She worked as a full-time office assistant. Bennett supervised the claimant and S. The claimant also helped S., the rental manager.

Part of the claimant's job was answering phone calls. At time, employees talked so loud it was difficult for the claimant to talk on the phone with customers. S., at times, became upset and yelled at other employees. After S. upset a customer, the claimant was told to handle the irate customer. The claimant did not like the yelling or offensive comments that were made at work. Bennett knew the office was loud. During her employment, the claimant did not ask Bennett to do something about the yelling that some employees engaged in.

In mid-June 2012, the claimant assumed Bennett was upset with her when she asked him a question. The claimant came to this conclusion after he curtly told her he was not going to argue with her. The claimant asked Bennett to do something about getting her help when she needed help at work. The clamant understood S. was to help her when she needed assistance, but S. did not help her.

In early July, Bennett and S. met with claimant to talk about several issues. The claimant did not receive a warning and her job was not in jeopardy. The employer wanted to resolve some issues. One issue was S. helping the claimant, when the claimant needed assistance. After S. told Bennett she would not help the claimant, Bennett told the claimant to contact him when she needed assistance. The claimant was not satisfied with this approach, because Bennett was not always available to contact or to help her. The employer talked to the claimant about gas receipts and keeping accurate records. Since the employer had received one customer's complaint about the claimant, the employer told the claimant this customer complained that she had a bad attitude. The claimant did not believe the complaint was justified, since she had talked to the customer and believed everything had been resolved between herself and the customer.

During the meeting, the claimant did not appear upset at what the employer talked about. After the meeting, the claimant noticed that nothing changed. She also felt that S. did not talk to her after the meeting. The claimant felt the work environment was hostile after the meeting. The claimant assumed the employer would pull her into more meetings if any other customer complained about her. The claimant decided that since the employer did not address her concerns for assistance and S. ignored her and would not help her, the claimant told Bennett the morning of July 13 that this was her last day of work. Bennett did not ask why the claimant was quitting. He planned to do that when the claimant completed her exit interview later that day. The claimant quit because she did not want to work in a hostile work environment.

After the claimant told Bennett she was quitting, a manager in another department told the claimant that he could maybe find her another job in the sales department. When Bennett met with the claimant at the end of her shift, she told him she was not really quitting because she was transferring to another department.

When the claimant reported to work on July 16, the manager who told her he would look for another job for her was not at work. The claimant worked in the detail department on Monday. On Tuesday, July 17, the claimant learned there were no jobs in the sales department for her.

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

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). The claimant's July 13 resignation from her job since 2004 resulted in her becoming unemployed. When the claimant resigned, she had no idea a sales manager would look to see if the sales department had an opening for her. When the sales manager talked to her on July 13, there was no guarantee she would transfer to another department. There was only the possibility that she could continue to work. Based on the facts in this case, the claimant quit her employment when she resigned on July 13, 2012.

When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2). The law presumes a claimant quits with good cause when she leaves because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The law also presumes claimant quits without good cause when she leaves employment because she is dissatisfied with the work environment. 871 IAC 24.25(21).

The room where the claimant answered the phone has always been loud. Undoubtedly, the background noise created problems for the claimant when she answered the phone. While the employer could have taken some disciplinary actions with some employees to make sure the area was quieter, this did not happen. The claimant did not go to anyone in management to

explain that she found the yelling of some employees offensive and she did not ask the employer to do something about the loud noise or yelling.

The facts indicate the claimant quit because Bennett would not make sure S. helped the claimant as she was supposed to do. The claimant assumed that if another customer complained, the employer would again meet with her. If the employer had another customer complaint, the employer should talk to the claimant or any other employee about the complaint. The claimant also felt that after the meeting, S. ignored her, which added to the claimant's feeling of being uncomfortable at work. Instead of talking to Bennett or the owner, the claimant decided she could not continue her job and resigned. The claimant established dissatisfaction with her work environment, but she did not establish that she worked in a hostile work environment or under intolerable or detrimental working conditions. The claimant quit for reasons that do not qualify her to receive benefits. As of July 15, 2012, the claimant is not qualified to receive benefits.

The issue of overpayment and whether the claimant is eligible for a waiver of any overpayment of benefits she has received since July 15, 2012, will be remanded to the Claims Section to determine.

**DECISION:**

The representative's August 6, 2012 determination (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 15, 2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment and whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw