

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUZETTE M SONDERMANN
Claimant

APPEAL NO. 07A-UI-08099-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEERY BROTHERS INC
Employer

**OC: 07/15/07 R: 04
Claimant: Respondent (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Deery Brothers (employer) appealed a representative's August 15, 2007 decision (reference 01) that concluded Suzette Sondermann (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 10, 2007. The claimant participated personally. The employer represented by Marcy Schneider, Hearings Representative, and participated by Ron Bennett, Fixed Operations Manager, and Stacey Bowman, Parts Counterperson.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

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 hired on September 30, 2002, as a full-time parts professional. The fixed operations manager treated the claimant poorly as well as the owner. The owner acted irrationally, once pushing a printer on the floor. The employer allowed pornographic pictures and off-color jokes in e-mails to be sent and shared. The claimant repeatedly complained but the practice continued. She also complained about the behavior of the manager but the manager was never reprimanded or even told of the claimant's complaints.

On July 16, 2007, the fixed operations manager yelled, "Answer the phone." The claimant did not understand he was talking to her because she normally did not answer the telephone. She was busy filling orders for parts. Approximately three mechanics were waiting. The manager rushed at her and said, "Answer the damn phone." She was frightened by his tone and proximity. The mechanics became quiet. The claimant answered the phone and then excused herself to the bathroom where she cried about her working situation. The claimant returned to the employer and quit work. Continued work was available had the claimant not resigned.

The testimony of the employer and claimant was conflicting. The administrative law judge finds the claimant's testimony to be more credible. The employer's testimony was internally inconsistent.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with 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.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of the Fixed Operations Manager's inappropriate behavior. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's August 15, 2007 decision (reference 01) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css