

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 04A-UI-07983-H2T
OC: 11-16-03 R: 12
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 12, 2004, reference 04, decision that denied benefits. After due notice was issued, a hearing was held on August 17, 2004. The claimant did participate and was represented by William Bribriesco, Attorney at Law. The employer did not participate. Claimant's Exhibit A was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a secretary full time beginning January 14, 2004 through April 22, 2004 when she voluntarily quit because her direct supervisor, Brad Laurence, was harassing her and treating her in an intolerable manner. On numerous occasions Mr. Laurence would yell at the claimant if her work performance did not please him. On separate occasions he called the claimant a "numbskull" and told her she was "fucked up." The claimant also complained of

Mr. Laurence repeatedly asking her out on a date and of him rubbing up against her on two separate occasions. The claimant complained to C.J. in the human resources department and also to Jim Weaver, Mr. Laurence's supervisor. The claimant told Mr. Weaver she would quit if Mr. Laurence did not start treating her in a more appropriate manner. When Mr. Laurence's inappropriate yelling and touching continued, the claimant quit rather than subject herself his continued abuse.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

The U.S. Supreme Court has held that a cause of action for sexual harassment may be predicated on two types of harassment: (1) Harassment that involves the conditioning of concrete employment benefits on sexual favors, and (2) harassment that, while not affecting economic benefits, creates a hostile or offensive working environment. Meritor Savings Bank v. Vinson, 477 U.S. 57, 62 (1986).

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(3), (4) provide:

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:

(3) The claimant left due to unlawful working conditions.

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

The claimant complained to management about the treatment she was receiving at the hands of Mr. Laurence, yet nothing was done to stop Mr. Laurence's continued abuse. The claimant warned Mr. Weaver that she would have to quit if the situation did not change. When the yelling, screaming and inappropriate touching by Mr. Laurence did not end, the claimant quit. Mr. Laurence's actions created a hostile working environment for the claimant. Her leaving was with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The July 12, 2004, reference 04, decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

tkh/b