

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRUDI MATHES
Claimant

APPEAL NO: 14A-UI-00190-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**SAC & FOX TRIBE
MESKWAKI BINGO CASINO & HOTEL**
Employer

**OC: 10/13/13
Claimant: Appellant (2)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Trudi Mathes (claimant) appealed an unemployment insurance decision dated December 31, 2013, reference 03, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with the Meskwaki Bingo Casino & Hotel (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 29, 2014. The claimant participated in the hearing. The employer participated through Lucie Roberts, Human Resources Director. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

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 employed as a full-time buffet dining room attendant from February 12, 2013 through November 1, 2013, when she voluntarily quit. On September 25, 2013, she was working when her friend Kerry was murdered in the claimant's home. Kerry's husband was living at the claimant's house and he, his sister Sahara and their mother Ginger were also at the claimant's house when Kerry was murdered. Ginger was subsequently charged with the murder, although the date that occurred is unknown. Ginger is friends with the Food and Beverage Director Nicole Kapayou, who also happens to be the claimant's supervisor.

After the murder, the claimant went on administrative leave for a week and returned to work on October 5, 2013. Director Kapayou approached the claimant twice that day asking her questions about the incident and the questions made the claimant uncomfortable. She reported to work on the following day and the Director approached her again with questions. The claimant went off work on medical leave and did not want to return to work with Director Kapayou. She worked with human resources in an attempt to transfer to a different department.

Although jobs were offered, the claimant did not accept them because most were still under the Director's supervision and the other jobs were more physically demanding than the job she had. The claimant was not eligible for a lot of jobs because she does not have her gaming license. When she was not able to transfer, she voluntarily quit on November 1, 2013.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit her employment effective November 1, 2013, because of intolerable working conditions. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

The claimant has established intolerable working conditions. She was naturally upset over the murder of her friend that happened at her home. Her supervisor has a personal involvement with the defendant and the supervisor abused her position of authority when she questioned the claimant about the facts of the case. Any reasonable person would quit under similar circumstances and the employer's failure to remove that supervisor effectively condoned the supervisor's abuse of power.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has satisfied that burden. Benefits are allowed.

DECISION:

The unemployment insurance decision dated December 31, 2013, reference 03, is reversed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs