

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISSA FARRAND
Claimant

APPEAL NO: 08A-UI-05646-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEATON INC
Employer

**OC: 05-11-08 R: 04
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 5, 2008, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on July 2, 2008. The claimant participated in the hearing with former employee Brandy Bond. Kathy Frerichs, Controller, and Luis Reyes, General Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time crew member for Burger King from August 15, 2006 to April 3, 2008. She called in prior to her shift April 3, 2008, and notified the employer she was quitting her job. The claimant testified she left because she was being sexually harassed by General Manager Luis Reyes. On different occasions Mr. Reyes grabbed her nipples with tongs; “rammed” a phone antenna into her rear end and said it would be funny when someone put the antenna in their mouth; and when the claimant would bend over he would say, “As long as you’re down there...” He also pushed himself against the claimant and talked about the size of his penis. Former Assistant Manager Brandy Bond confirmed the claimant’s testimony and stated that Mr. Reyes “bragged” about the incidents with the tongs and phone antenna and testified Mr. Reyes harassed her as well. The claimant did not report the situation to management because she feared retaliation.

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.

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.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant detailed incidents involving Mr. Reyes' conduct that constitute sexual harassment and his actions must be considered intolerable and detrimental if not unlawful. Under these circumstances the administrative law judge concludes that the claimant's leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits are allowed.

DECISION:

The June 5, 2008, reference 01, decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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