

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID J AHART
Claimant

APPEAL NO: 13A-UI-08572-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

OC: 06/30/13
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(4) – Intolerable/Detrimental Working Conditions

STATEMENT OF THE CASE:

The claimant appealed a department decision dated July 19, 2013, reference 01, that held he voluntarily quit without good cause attributable to the employer on March 28, 2013, and benefits are denied. A telephone hearing was held on August 28, 2013. The claimant participated. The employer did not participate. Claimant Exhibit A was received as evidence.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant worked for the employer as a full-time electrical specialist from July 12, 2010 to March 28, 2013. The claimant was assaulted by a co-worker and the incident was reviewed by an employer supervisor who acted as an HR person on the second shift.

Claimant had continuing issues with the co-worker and his inquiry to the supervisor whether the employee had been disciplined went unresolved. He made another complaint against the co-worker in October/November 2012. The supervisor response to claimant was if there were any further problems he and the co-worker would be fired.

When claimant returned from FMLA in February 2013, co-workers warned claimant to watch his back. He was told the co-worker was going to “bait” him into a confrontation that would cause him harm. Claimant was afraid to report it to human resources as he believed a complaint would cause him to lose his job.

After considering the co-worker assault and continuing threats without employer intervention, claimant chose to leave employment on March 28, 2013.

The employer failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes the claimant voluntarily quit with good cause attributable to the employer due to intolerable and detrimental working conditions on March 28, 2013.

The claimant offered un-refuted testimony he had a good cause for quitting due to intolerable co-worker assault and threats that is attributable to the employer based on reported complaints. The employer instruction to claimant he would be fired with the co-worker without resolving fault for any such conduct is a detrimental/intolerable working condition.

DECISION:

The department decision dated July 19, 2013, reference 01, is reversed. The claimant voluntarily quit with good cause attributable to his employer on March 28, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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