

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA M HEINRICHS
Claimant

APPEAL NO. 11A-UI-03006-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LAST TOUCH LLC
Employer

OC: 01/16/11
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 4, 2011 (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on March 30, 2011. Claimant participated with her husband, Randy Heinrichs. Employer participated through Leah Heinrichs and Reggie Heinrichs.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as an office worker for the cleaning and painting business from February 2009 and was separated from employment on January 3, 2011. There was questionable bookkeeping to avoid payment of income tax, sales tax, and employees' payroll taxes. The employer had blamed her for other related things (not getting messages from IRS agents, not paying bills, being responsible for bookkeeping when that was not part of her job duties), so she was afraid of being implicated in non-payment of taxes. Randy and Reggie are brothers and Lisa and Leah are their spouses, respectively. Claimant started her own cleaning business with her husband in January 2011, but the company is not active because they were not hired for contract work after Last Touch LLC, Leah and Reggie Heinrichs filed suit against them.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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) 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:

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

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

A notice of an intent to quit had been required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871 IAC 24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871 IAC 24.26(4), the intolerable working conditions provision. Our Supreme Court recently concluded that, because the intent-to-quit requirement was added to 871 IAC 24.26(6)(b) but not 871 IAC 24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The claimant's involvement in disputes with various taxing agencies on behalf of the employer put her in jeopardy of engaging in inappropriate or illegal business activity and created an intolerable work environment for claimant that gave rise to a good-cause reason for leaving the employment. Benefits are allowed.

DECISION:

The March 4, 2011 (reference 01) 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. The benefits withheld shall be paid to claimant.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw