

**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**

**MARGARET STONE
1500 E MADISON ST
DES MOINES IA 50313**

**OZARK AUTOMOTIVE DISTRIBUTORS INC
ATTN PAYROLL DEPT
PO BOX 1156
SPRINGFIELD MO 65801-1156**

**Appeal Number: 06A-UI-01223-BT
OC: 01/01/06 R: 02
Claimant: Respondent (1)**

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 Quit

STATEMENT OF THE CASE:

Ozark Automotive Distributors, Inc. (employer) appealed an unemployment insurance decision dated January 24, 2006, reference 01, which held that Margaret Stone (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 15, 2006. The claimant participated in the hearing. The employer participated through Whitney Smith, Human Resources Supervisor.

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 inbound materials handler from May 3, 2004 through January 3, 2006. She voluntarily quit her employment due to intolerable and detrimental working conditions. The claimant reported to the employer that she was sexually harassed by a male co-worker. The employer investigated the matter but could not substantiate any sexual harassment. However, the claimant filed for a no-contact order against this co-worker and there was sufficient evidence for the court to grant the no-contact order near the end of August 2005. To enforce the no-contact order, the employer transferred the claimant to the night shift, which placed her under the direct supervision of Jaci.

It was apparent to the claimant from the time of hire that Jaci did not like her and she did not particularly care for Jaci, but there were no problems until Jaci became her supervisor. Jaci told the claimant she could not go to the restroom without getting her permission first. The claimant felt everything she did was wrong in Jaci's eyes and the work environment had become hostile. The problems escalated on December 29, 2005 after Jaci told the claimant she was being taken off the carousel and would start working on the floor on the following week. The claimant questioned Jaci about it since she did not feel she deserved what she viewed as a disciplinary action and Jaci told her, "I can put you anywhere I want. You work for me, you do what I say, anytime, anywhere." The claimant went back to work with a co-employee putting a product on the shelf but they soon ran out of room. Instead of calling Jaci who would be angry, the claimant called another supervisor to ask where to put the additional product that could not fit on the shelf. Shortly after that, Jaci called the claimant to the office and yelled at her that if she called the other supervisor again, she would receive a written warning. Jaci told the claimant if she did not like it, she could complain to the employer. The claimant talked to the operations manager about Jaci and he said he would look into it but no action was taken.

The claimant returned to work on January 3, 2006 and spoke to the human resources supervisor, who had been absent on the previous Friday. The claimant requested to transfer but her request was denied. Shortly thereafter, the claimant became upset by the situation and walked off the job after telling some co-workers that she was leaving.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits.

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 claimant quit her employment due to intolerable and detrimental working conditions. She reported sexual harassment to the employer but no action was taken. She sought the protection of the legal system and a no-contact order was issued against her male co-employee. And while this certainly does not establish the existence of sexual harassment, it does at least establish the claimant was being treated improperly by her co-worker in some manner. In response to the no-contact order, the employer moved the claimant to the night shift while allowing the employee, against whom the order was granted, to stay on the day shift. On the night shift, the claimant was placed under the supervision of a woman who repeatedly humiliated her and harassed her without justification, including requiring the claimant to seek permission before using the restroom. The claimant sought assistance from the employer as to the supervisor's inappropriate treatment but no action was taken and the claimant was further told she could not transfer.

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. The claimant has satisfied that burden. Benefits are allowed.

DECISION:

The unemployment insurance decision dated January 24, 2006, reference 01, is affirmed. 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.

sdb/pjs