

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES T WALKER
Claimant

APPEAL NO. 11A-UI-11830-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARKETLINK INC
Employer

**OC: 08/07/11
Claimant: Respondent (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Marketlink (employer) appealed a representative's September 6, 2011 decision (reference 01) that concluded James Walker (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 29, 2011. The claimant participated personally. The employer participated by Amy Potratz, human resources manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on April 14, 2008, as a full-time telephone sales representative. The claimant repeatedly warned the employer that he would quit work if his supervisors did not stop making disrespectful remarks to him. The supervisor called the claimant worthless and used profanity. On June 8, 2011, the claimant told the supervisors he was quitting due to the disrespectful remarks of the supervisors. The supervisors called the claimant worthless and used profanity. On June 8, 2011, the claimant told the supervisors he was quitting due to the disrespectful conduct. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit work 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.

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 law presumes a claimant has left employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant informed the employer about the conditions the claimant believed were intolerable or detrimental and he notified the employer that he intended to quit employment unless the conditions were corrected. The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of the intolerable working conditions. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the claimant's testimony to be more credible, because he was an eyewitnesses to the events for which he resigned.

DECISION:

The representative's September 6, 2011 decision (reference 01) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw