

#### 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 custodian from July 29, 2002 through June 23, 2004. He previously gave notice to quit because he found another job but when that job fell through, he returned on a part-time basis from June 29, 2004 through May 9, 2005. The claimant quit his employment in May 2005 because he was tired of being mistreated by his supervisor. His first supervisor was Albert, and Albert mistreated the claimant. Albert commented that the claimant's mother must have "stretched real big" when she delivered the claimant because of the claimant's head. Another supervisor named Mike was present for the comment, but he and Albert are good friends. Albert yelled at the claimant and the claimant told Albert not to yell at him because he is a grown man. Albert stopped yelling when another employee named Doug arrived and later Albert discharged Doug. Albert continued to pick on the claimant and the claimant repeatedly told his employer, but nothing was done as the employer never witnessed the mistreatment. The claimant eventually filed a civil rights complaint about Albert and shortly thereafter, Albert suspended the claimant. It was reportedly due to smelling alcohol on the claimant but that was on a day when the claimant was not working.

In October 2004, Mike became the claimant's supervisor, and Mike also mistreated the claimant. Mike gave the claimant another employee's work to complete and he also yelled at the claimant. Another employee named Ryan witnessed Mike yelling at the claimant. The claimant also reported Mike's conduct to the employer. The final incident was after Mike had a meeting with Ryan and told Ryan to tell the claimant that Mike yelled at Ryan when that was not true. Ryan told the claimant what Mike wanted him to do and the claimant decided he could no longer work there.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him 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.

The claimant quit because of mistreatment by his supervisor. 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). In order to show good cause for leaving employment based on intolerable or detrimental working conditions, an employee is required to take the reasonable step of informing the employer about the conditions the employee believes are intolerable or detrimental and that he intends to quit unless the conditions are corrected. The employer must be allowed the chance to correct those conditions before the employee takes the drastic step of quitting employment. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). In the case herein, the claimant did advise the employer of the mistreatment by his supervisor. When nothing was done with the first supervisor, the claimant filed a civil rights complaint. After the subsequent supervisor continued the mistreatment, the claimant felt as if he had no other options than to quit his job.

The employer testified but did not directly dispute any of the claimant's testimony and acknowledged that the claimant had reported this mistreatment. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has satisfied that burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated August 30, 2005, reference 02, is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits provided he is otherwise eligible.

sdb/s