

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JASON JOHNSON**  
Claimant

**APPEAL NO. 10A-UI-15423-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AT&T MOBILITY SERVICES LLC**  
Employer

**OC: 10/03/10**  
**Claimant: Appellant (2)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Jason Johnson (claimant) appealed an unemployment insurance decision dated October 28, 2010, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with AT&T Mobility Services, LLC (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 27, 2010. The claimant participated in the hearing. The employer provided a telephone number for a witness and the employer representative. The witness was not available, so the representative elected not to participate. Claimant's Exhibits A through F were admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

**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 employed full-time from July 2001 through October 1, 2010. He was hired as a retail sales representative and then became an assistant manager, a manager, an area retail manager, and was in the position of manager at the time of his separation. The claimant voluntarily quit due to intolerable working conditions.

The claimant had taken leave under the FMLA when his daughter was ill in 2007. He was an area retail manager when he went on leave and when he returned, the employer threatened his job so that he was forced to step down to maintain insurance coverage for his daughter who had been diagnosed with cancer. The claimant then worked as a manager in the Cedar Rapids, Iowa Marketplace on First store from 2007 through August 31, 2010.

Jeff Welch was promoted to the area retail manager and the claimant came to believe Mr. Welch had some sort of personal vendetta against him for unknown reasons. The claimant

and his family were living in Marengo, Iowa, but had to move due to air quality, since it was negatively affecting his daughter as she was going through chemotherapy. He and his family moved to Mount Vernon, Iowa, in January 2008. Mr. Welch then moved to Mount Vernon in April 2009. The claimant questioned why Mr. Welch moved to the same small town that he did since there was no local store in that town. Mr. Welch often drove by the claimant's house and spoke to local townspeople about the claimant.

The claimant was forced to take additional leave under FMLA from August 10, 2010 to August 24, 2010. He was hesitant to take the medical leave but had no other options. He returned to work on August 25, 2010 and August 26, 2010 was his regular day off work, so he did not work that day. The employer advised the claimant on August 27, 2010 that he was being moved from the Marketplace on First store to the Edgewood Market store effective September 1, 2010. Although both stores are located in Cedar Rapids, the Edgewood Market store had always been a problem store. The claimant testified that managers were sent to that store when the employer wanted them to quit. The Edgewood Market store was an underperforming store and the claimant's commission potential was reduced by half.

The claimant moved to the new store since he had no other options. While in this location, Mr. Welch often stopped by and corrected the claimant's actions in front of customers and employees. In front of others, Mr. Welch told the claimant that he was handling different situations inappropriately. In private, the claimant often demonstrated to Mr. Welch by looking at company manuals, that his actions were correct. Mr. Welch never offered any apology, even when it was proven the claimant did not do anything wrong. Mr. Welch's poor treatment of the claimant affected the claimant's relationships with his employees and customers.

The claimant loved his work and devoted many years of his life to this company. He tried repeatedly through September 2010 to transfer to a different job within the company but was rejected or ignored. He felt like he was being "blackballed" by the employer. He finally could take no more and voluntarily quit on October 1, 2010.

#### **REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

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(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 his employment on October 1, 2010 due to intolerable working conditions. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

The intolerable working conditions were due to the conduct of Area Retail Sales Manager Jeff Welch. Mr. Welch harassed the claimant in the workplace and also in the small town in which they lived. Any reasonable person would quit under similar circumstances. 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 October 28, 2010, reference 01, 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.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/kjw