

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDY F BOND
Claimant

APPEAL NO. 08A-UI-06301-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEATON INC – BURGER KING
Employer

**OC: 06/01/08 R: 04
Claimant: Appellant (2)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Brandy Bond filed an appeal from a representative's decision dated July 2, 2008, reference 01, which denied benefits based on her separation from Burger King. After due notice was issued, a hearing was held by telephone on July 23, 2008. Ms. Bond participated personally and offered additional testimony from Krissa Farrand. The employer participated by Kathy Frerichs, Controller.

ISSUE:

At issue in this matter is whether Ms. Bond was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Bond was employed by Burger King from August 27, 2007 until May 31, 2008. She was last employed full time as a crew member. She notified an assistant manager that she was quitting. She quit because of inappropriate conduct on the part of management.

Ms. Bond began having problems with sexual harassment in April of 2008. She was touched on the buttocks and breasts by managers. On one occasion, she was "humped" from behind by an assistant manager. It was also suggested that she perform oral sex on a manager. She complained about the conduct but it continued. Ms. Bond quit the employment the day after she was warned and placed on probation because of her attendance.

REASONING AND CONCLUSIONS OF LAW:

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Part of the reason for Ms. Bond's quit was that she was sexually harassed at the workplace. The employer knew from the fact-finding interview that she was alleging sexual misconduct on the part of her managers. The employer did not present either of the individuals

as a witness during the hearing in spite of the fact that both are still employed by the company. Their denials of the allegations were presented only as hearsay testimony.

The employer's hearsay testimony was not sufficient to overcome the sworn testimony of Ms. Bond and her witness. The conduct complained of constituted an intolerable work environment as contemplated by 871 IAC 24.26(4). Sexual harassment constitutes illegal conduct. As such, Ms. Bond had good cause for quitting. See 871 IAC 24.26(3). For the reasons cited herein, benefits are allowed.

DECISION:

The representative's decision dated July 2, 2008, reference 01, is hereby reversed. Ms. Bond quit her employment for good cause attributable to the employer. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css