

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHELLY K ERWIN
Claimant

APPEAL NO. 07A-UI-01075-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ADMINISTRATIVE CONCEPTS
2000 CORPORATION**
Employer

OC: 12/31/06 R: 01
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Shelly K. Erwin (claimant) appealed a representative's January 25, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Administrative Concepts, 2000 Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 14, 2007. The claimant participated in the hearing and presented testimony from one other witness, Maggie Davis. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on October 27, 2006. She worked full-time as a customer service worker at the employer's Orlando, Florida, area convenience store. Her last day of work was December 15, 2006. She voluntarily quit as of that date.

The convenience store is located in a crime-filled area. One of the claimant's duties as assigned by the employer was to "chase off" persons loitering on the property, which she did. Some of these persons were drug dealers who conducted business on the property for higher level drug dealers. The claimant began receiving warnings from some of the lower-level drug dealers and others in the area that she had better "watch her back." The claimant found a loaded gun in one of the store's restrooms on or about December 1. She called the police who came and took the gun; she also reported the threats, but the police indicated there was not anything else they could do. The store began receiving calls from persons in the neighborhood inquiring about work schedules of persons at the store. After receiving additional threats the week of December 15 that caused to the claimant to begin to seriously fear for her life, she discussed the matter with the then-store manager, Ms. Davis, who agreed that work at the store had probably become too dangerous for the claimant and that it would be best for the claimant if

she quit, so she did. The following week the claimant learned that the store had been shot up with a machine gun on a night she had been scheduled to work.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for 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.

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988); Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). The claimant has demonstrated that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. EAB, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). Benefits are allowed.

As the employment took place in Florida, any chargeability of the employer for benefits paid to the claimant would be determined according to Florida law.

DECISION:

The representative's January 25, 2007 decision (reference 01) is reversed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css