

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BORCHERS, JANIS, S**  
Claimant

**APPEAL NO. 11A-UI-02546-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LENSCRAFTERS INC**  
Employer

**OC: 12/05/10  
Claimant: Respondent (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the February 21, 2011, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on March 23, 2011. Claimant participated. Tom Kuiper of TALX represented the employer and presented testimony through Mike Vadis.

**ISSUE:**

Whether the claimant's voluntary quit was for good caused attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Janis Borchers was employed as the full-time manager of the LensCrafters store at the Merle Hay Mall until October 28, 2010, when she voluntarily quit in response to verbal aggression that her new immediate supervisor, Mike Vadis, directed at her. Ms. Borchers had been with the company since 1998. Mr. Vadis had joined the company July 2010 and had become Ms. Borchers' immediate supervisor at that time. Mr. Vadis' standard operating procedure in dealing with the Ms. Borchers and other under his supervision was to use a loud, aggressive, attacking and demeaning tone. Other employees at the Merle Hay store, and other managers within the region supervised by Mr. Vadis, experienced similar treatment by Mr. Vadis. Some attributed it to his Greek heritage. Mr. Vadis would call Ms. Borchers at the Merle Hay store and yell at her loud enough for others in the store to hear his end of the conversation. Mr. Vadis directed the staff at the Merle Hay store to contact Ms. Borchers about routine store performance matters at a time when he knew Ms. Borchers was on an approved vacation. The final incident that triggered the quit was a business meeting that occurred on October 12, 2010 in the lobby of a hotel. Mr. Vadis verbally attacked Ms. Borchers in a manner that publicly humiliated her and that attracted the attention of others in the hotel lobby. After that experience, Ms. Borchers concluded she could not continue to work for the employer under such circumstances and notified Mr. Vadis on October 14 that she was leaving effective October 28, 2010. Prior to notifying Mr. Vadis of her resignation, Ms. Borchers contacted other management/supervisor staff for assistance and was told there was little they could do for her.

## REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

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).

After carefully listening to and carefully considering the evidence the administrative law judge finds no reason to discount Ms. Borchers' credibility. Ms. Borchers had been with the employer an extended period, had developed industry-related expertise, and had demonstrated the ability to constructively interact with those under her supervision, peer managers, and supervisors. The administrative law judge found Ms. Borchers to be a reasonable person, and reasonably flexible and accommodating person. The weight of the evidence indicates that Ms. Borchers did not balk at taking appropriate direction. The weight of the evidence establishes that Ms. Borchers did not overreact to Mr. Vadis or exaggerate when describing Mr. Vadis' unduly heavy-handed approach as her new supervisor. On the other hand, Mr. Vadis' testimony included indications that Mr. Vadis minimizes his conduct and the impact of his conduct on others. Mr. Vadis' euphemizes that he is "passionate" about his work. Mr. Vadis euphemizes that his voice is naturally louder and naturally carries. Mr. Vadis concedes that Ms. Borchers was not the only manager in his region to find his approach disagreeable. Mr. Vadis concedes that he directed the Merle Hay staff to contact Ms. Borchers about routine business matters at a time when he knew she was on an approved vacation. Apparently, the staff could discern the inappropriateness of the directive, while Mr. Vadis could not. On the other hand, Mr. Vadis presented the October 12 meeting as a low-key, "objective," goal driven event. The administrative law judge finds multiple reasons to discount the reliability of Mr. Vadis' testimony where it conflicts with Ms. Borchers' testimony.

The weight of the evidence establishes that Ms. Borchers voluntarily quit in response to repeated verbal abuse perpetrated by her immediate supervisor. Ms. Borchers voluntarily quit after being publicly humiliated during a business meeting. The weight of the evidence establishes both intolerable and detrimental working conditions that would prompt a reasonable person to leave the employment. Ms. Borchers quit the employment for good cause attributable to the employer. Accordingly, Ms. Borchers is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Borchers.

**DECISION:**

The Agency representative's February 21, 2011, reference 01, decision is affirmed. The claimant voluntarily quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/css