

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CALLY S CERWICK**  
Claimant

**APPEAL NO. 11A-UI-01951-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALORICA**  
Employer

**OC: 10/31/10**  
**Claimant: Appellant (4)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's decision dated February 14, 2011, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on March 15, 2011. The claimant participated personally. Although duly notified, the employer did not respond to the notice of hearing and did not participate.

**ISSUE:**

At issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Cally Cerwick was employed by Alorica from September 2010 until November 2, 2010, when she voluntarily left employment. Ms. Cerwick worked as a full-time customer service representative in a training capacity and was paid by the hour. Her immediate supervisor was Mike Glasco, trainer.

Ms. Cerwick left her employment with Alorica due to what she reasonably considered to be intolerable or detrimental working conditions. During her training, Ms. Cerwick was provided several trainers who varied the manner in which they presented training information to the students, causing the claimant difficulty in mastering her computer and customer service responsibilities. The claimant was also required to sit next to a female worker who the claimant believed to be delusional. The final incident that caused the claimant to leave employment was when a female employee physically hugged her, asking for "brownies." Although Ms. Cerwick repeatedly asked that these individuals not be allowed to personally bother her or sit adjacent to her, the claimant's supervisor was unresponsive to the claimant's requests and Ms. Cerwick therefore left employment.

## REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence is sufficient to establish that the claimant left employment with good cause attributable to the employer. It is.

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.

An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. See Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if the conditions persist in order to preserve eligibility for benefits. See Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991). A claimant is not required to give notice of his or her intention to quit due to an intolerable or detrimental or unsafe working environment if the employer had or should have had reasonable knowledge of the condition. See Hy-Vee v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2005).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer under the provisions of 871 IAC 24.26(4). The test as to whether an individual has good cause attributable to the employer for leaving employment is not a subjective test as to whether the employee themselves feel they have good cause, but an objective test as to whether a reasonable person would have quit under similar circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988).

Inasmuch as the claimant gave the employer numerous opportunities to resolve her complaints prior to leaving employment, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

The employer in this case is not a base period employer and thus it shall not be charged for benefits paid to the claimant during her current benefit year. Should the claimant be eligible for benefits in a subsequent benefit year, the employer's account could become chargeable for benefits paid to the claimant.

**DECISION:**

The representative's decision dated February 14, 2010, reference 01, is modified. The claimant quit employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law. Because the employer is not a base period employer, it is not chargeable for benefits paid to the claimant during her current benefit year.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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