

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELISSA K DEATHERAGE**  
Claimant

**APPEAL NO: 09A-UI-18895-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A-1 FIBERGLASS IOWA INC**  
Employer

**OC: 11/23/08**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Melissa K. Deatherage (claimant) appealed a representative's December 14, 2009 decision (reference 08) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with A-1 Fiberglass Iowa, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 28, 2010. The claimant participated in the hearing. Sara Swanson appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 September 8, 2008. She worked full time as quality inspector in the employer's Montezuma, Iowa fiberglass camper part manufacturing facility. Her last day of work was November 6, 2009. Her employment was determined to be ended as of November 11, 2009.

A new plant manager started at the facility on July 27, 2009. He became very hard on the claimant and harassing her by assigning her to onerous duties completely unrelated to her primary jobs, telling her to "shut up", occasionally referring to her as a "witch" or a "b - - -", and telling her he was not going to let her "get in his way" of getting product out the door because of any quality concerns she might be voicing. On November 6 there were several incidents, including him assigning her to wrap Christmas presents rather than performing her regular job duties and then criticizing how she was doing the wrapping, and dumping buckets of foul smelling water. Additionally, at one point he instructed her to shut up and to stand in a specific spot and not to move or speak until he said she could. After about 20 minutes he returned and saw she was still in the spot he had directed; he commented, "Oh, you can follow instructions."

The claimant did not report for work on November 9. Rather, she called the employer's human resources manager, Ms. Swanson, and explained the problems she was having with the plant manager. Ms. Swanson told the claimant that her only remedy at that point would be to have a meeting with the plant manager and discuss her concerns with him. The claimant expressed concern about meeting one on one with the plant manager, but was told there was no other alternative; a meeting was set up for November 10.

On November 10 the claimant was so upset thinking about meeting with the plant manager that she became ill. She called in an absence due to illness. When Ms. Swanson learned the claimant had called in, she called the claimant back and left a message indicating that if the claimant did not come into work on November 11, she would be discharged for attendance. While the claimant had some prior absences and had received some prior attendance warnings, there had been some steps in the warning process which had been skipped. On November 11 the claimant still felt she could not face the plant manager. She did not report for work but also did not call in or contact Ms. Swanson. She understood that this would mean her employment would be ended. However, even if she had felt well enough to report for work, the claimant was not willing at that point to return to work without some changes in the work arrangement, which she concluded were not going to occur.

#### **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. A voluntary quit is a termination of employment initiated by the employee – where the employee has taken the action which directly results in the separation; a discharge is a termination of employment initiated by the employer – where the employer has taken the action which directly results in the separation from employment. 871 IAC 24.1(113)(b), (c).

Rule 871 IAC 24.25 provides that, 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 from whom the employee has separated. While there is some question as to whether the separation was a discharge by the employer for attendance, the claimant essentially compelled the employer to discharge her by intentionally not reporting for work on November 11 and not calling in either the absence or to seek further discussion. She had in essence determined that she would not return to work at that point. As this was the claimant's decision, the separation is considered to be a voluntary quit. The claimant then has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2.

Intolerable or detrimental working conditions are good cause for quitting attributable to the employer. 871 IAC 24.26(4). 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). She did take some reasonable efforts to seek redress from the employer. Given the type of harassment the claimant had reported to the employer from the plant manager, requiring her to discuss the matter directly with him face to face, one-on-one, was not a reasonable requirement on the part of the employer to attempt to address the claimant's concerns. Benefits are allowed, if the claimant is otherwise eligible.

**DECISION:**

The representative's December 14, 2009 decision (reference 08) 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.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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