

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSEPHINE J BA**  
Claimant

**APPEAL NO. 11A-UI-10503-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE BON-TON DEPARTMENT STORES INC**  
Employer

**OC: 07/10/11  
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The employer filed an appeal from the August 1, 2011 (reference 01) decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call on September 9, 2011. Claimant participated. Employer participated through Human Resources Manager and Assistant Store Manager Matt Espille.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a counter manager in fine jewelry and was separated from employment on July 6, 2011. On June 28, she met with Store Manager Jennifer McDermott who told her to keep doing what she was doing but that she needed to step up her leadership skills and provide training to her subordinates, in spite of a recent good performance evaluation. Claimant said she had not received any training and was self-training the best she could. A few days later, her job was given to another individual in the department without her knowledge. The individual told her he had been offered the position a week earlier. There had been rumors in previous months that store management did not like African Americans holding management positions in cosmetics or jewelry.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment with good cause attributable to the employer.

Iowa Code § 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(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

A claimant is not generally required to give notice of his intention to quit due to an intolerable, detrimental, or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant's recollection of the events surrounding the separation and relevant statements of coworkers is credible. Since there was no disqualifying basis for the demotion or removal from the management position, the quit because of the change in contract of hire was with good cause attributable to the employer. Benefits are allowed.

**DECISION:**

The August 1, 2011 (reference 01) decision is affirmed. The claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw