

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**TRACI N CUNNINGHAM**  
Claimant

**APPEAL NO. 18A-UI-02496-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BRIDGESTONE RETAIL OPERATIONS LLC**  
Employer

**OC: 01/21/18  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Traci Cunningham (claimant) appealed a representative's February 22, 2018, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Bridgestone Retail Operations (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 22, 2018. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The claimant offered and Exhibit 1 was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 16, 2017, as a full-time retail sales team mate. The claimant's supervisor, Luke, frequently "accidentally" touched the claimant's buttocks. The claimant's co-workers called her names: fruitcake, nasty, and redneck. On December 16, 2017, a female co-worker thought the claimant threw her clipboard but the claimant did not. The female put her face close to the claimant and "pinned" her. The coworker said, "I'm going to beat your ass". The coworker started slamming items in the area.

In December 2017, he put his hand down the back of the claimant's pants. The claimant left messages with human resources but they would not return her call. The help desk called human resources but human resources never called the claimant. Once Luke heard the claimant had tried to call human resources, he became short-tempered with the claimant. He told her not to go above him without telling him first.

On January 25, 2018, a coworker was upset about making a mistake and threw a car part in her face. The claimant felt threatened and sexually harassed. On January 26, 2018, the claimant gave the employer notice of her resignation.

**REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(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.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant attempted to notify the employer of working conditions. Human resources would not return her calls. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided she meets all the qualifications.

**DECISION:**

The representative's February 22, 2018, decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs