

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEVIN J HUNTER
Claimant

APPEAL NO. 09A-UI-10055-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**VERIZON BUSINESS NETWORK
SERVICES INC**
Employer

OC: 05/31/09
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Kevin Hunter, filed an appeal from a decision dated July 1, 2009, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on July 29, 2009. The claimant participated on his own behalf and with witness Nathan Strother. The employer, Verizon, participated by Team Lead Don Schuller.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Kevin Hunter was employed by Verizon from December 16, 1996 until July 25, 2008 as a full-time tape specialist. He decided to return to school in the fall of 2006 and the employer accommodated his request to change his schedule several times after that.

In July 2008 the claimant asked his supervisor, Team Lead Don Schuller, if he could go part time. He needed more time to devote to his classes and studies. Mr. Schuller said he would talk to his manager about the request and did so. The request was refused and Mr. Hunter was informed of this. The claimant and supervisor tried to work out a schedule where he could work 40 hours and continue his schooling, but Mr. Hunter could not come up with a schedule which would meet his needs. He gave a verbal resignation around July 11, 2008, and gave two-weeks' notice.

At the hearing the claimant asserted his resignation was also prompted by sexual harassment from co-workers touching him on the shoulder or head. He maintained he complained to a supervisor at one point but does not know when or to whom the complaint was made. The supervisor allegedly told him to try and handle the situation himself but he did not do so. At no time did he firmly tell any of his co-workers to stop touching him, he did not like it, and they should not do it again. He did not take advantage of the open door policy to file a formal complaint of harassment with a manager or the human resources department even though he

had a copy of the employer's policy regarding such matters. Any such complaint can be made anonymously but he did not follow through.

He acknowledged there had been no incidents of sexual harassment around the time he turned in his resignation and two-week notice, but he had been told he could not go part time.

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.

871 IAC 24.25(26) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(26) The claimant left to go to school.

The claimant's reason for quitting was in order to devote more time to his classes and studying. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer.

His allegations of sexual harassment cannot be considered as the precipitating cause of his resignation. There had been no incidents since February and three months is not concurrent with his decision to resign. In addition, he made no serious effort to apprise the employer of his concerns. In order for good cause attributable to the employer to exist, a claimant with grievances must make some effort to give the employer an opportunity to work out whatever problem led to the grievance. By not giving notice to the employer of the circumstances causing the decision to quit employment, the claimant failed to give the employer an opportunity to make adjustments which would alleviate the need to quit. *Denby v. Board of Review*, 567 P.2d 626 (Utah 1977).

The precipitating event was being unable to go part time, but the employer is not obliged to change his employment status from full time to part time. He was unable to create a work schedule which would accommodate his classes and studying and this is the event which caused him to quit. He is disqualified.

DECISION:

The representative's decision of July 1, 2009, reference 01, is affirmed. Kevin Hunter is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css