

manager by Mo Osky, Inc. from April 15, 2005 until she resigned on or about September 7, 2005. On that date, the claimant's sister, Stacey Eliason, called Operations Director Joe Bambrook to say that Sherilyn Eliason would not be coming to work any longer because of comments allegedly made by Manager Chris Clark. Mr. Clark was accused of making references to Sherilyn Eliason using illegal drugs.

Sherilyn Eliason had not spoken to Mr. Bambrook about this in the past. He spoke with Mr. Clark and to the individuals to whom Mr. Clark allegedly had made the statements. All denied that Mr. Clark had said anything inappropriate. The company has a policy on the prevention of harassment. Signs at the restaurant advise employees that they can contact Mr. Bambrook if they feel they are being harassed. Sherilyn Eliason had not contacted him prior to the resignation.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant resigned with good cause attributable to the employer. It does not.

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.

The question is whether a reasonable employee would have resigned under the circumstances. See O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993). The administrative law judge concludes that a reasonable employee in Ms. Eliason's situation would have first contacted Mr. Bambrook complaining of Mr. Clark's behavior. This would have given Mr. Bambrook the opportunity to investigate and to take appropriate steps if the manager had spoken inappropriately. The evidence establishes that Mr. Bambrook did in fact investigate as soon as he learned of the allegation and concluded that it was without merit. A resignation because of false rumors is without good cause attributable to the employer under these circumstances.

DECISION:

The unemployment insurance decision dated September 22, 2005, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

kkf/kjw