

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRYSTAL ROHMILLER
Claimant

APPEAL NO: 09A-UI-06291-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

SIOUX CITY IA GC4 LLC
Employer

OC: 09-28-08
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 16, 2009, reference 03, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 14, 2009. The claimant participated in the hearing. John Burkhart, General Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time baker for Sioux City Iowa GC4 from October 31, 2008 to March 22, 2009 when she voluntarily quit. Another employee yelled at her on March 20, 2009, in front of the co-owner but the co-owner failed to do anything about it and simply told the claimant to ignore the other employee. On approximately the same date, the manager asked the claimant if her boyfriend could get drugs for him. The claimant told the co-owner who told her husband John Burkhart. Mr. Burkhart called the manager into the office and confronted him but the manager denied everything. Mr. Burkhart had promised the claimant no names would be used and said the manager would not know the claimant was the individual who reported him. However, within two days, the claimant received telephone calls from a guy telling her she was going to get her "ass" kicked if she did not voluntarily quit. She called Mr. Burkhart on March 22, 2009, and advised him she had to voluntarily quit.

REASONING AND CONCLUSIONS OF LAW:

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

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 24.26(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 claimant quit March 22, 2009, due to intolerable and detrimental working conditions. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005). In this case the claimant was being threatened as a result of the employer's actions. The employer tried to take care of a problem but unfortunately made it worse. "Good cause" need not be based on fault or wrongdoing on the part of the employer, but may be attributable to the employment itself. Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2. She has satisfied that burden and therefore benefits are allowed.

DECISION:

The April 16, 2009, reference 03, decision is affirmed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs