

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEPHANIE L ZASTROW**

Claimant

**APPEAL NO. 10A-UI-10800-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MCKENZIE CHECK ADVANCE OF IA LLC**

Employer

**OC: 06/27/10**

**Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated July 23, 2010, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 16, 2010. Claimant participated. Employer participated by Twyla Brown, Director Operations Iowa. The record consists of the testimony of Stephanie Zastrow; the testimony of Twyla Brown; and Claimant's Exhibits A-D.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer provides check cashing and pay day loan services. The claimant was hired on January 4, 2010, to serve as manager of the employer's store in Bettendorf, Iowa. The claimant gave two weeks' notice on June 28, 2010, that she would be resigning effective July 16, 2010. The employer let the claimant go on July 2, 2010, but paid her salary through July 16, 2010.

The claimant quit her job due to harassment from her supervisor – Twyla Brown. Ms. Brown was responsible for the Bettendorf store as well as other stores located in Iowa. Ms. Brown began an investigation of the claimant's management of the store. The claimant would hear Ms. Brown call up members of the claimant's staff and question them about the claimant's job performance. One employee, Margaret Doud, was instructed by Ms. Brown to let her know by text, email or phone call anything that the claimant was doing that was not company policy.

Ms. Brown told Seth Ross, the claimant's assistant, that the claimant was lazy and not performing well. She was critical of the claimant's sexuality; looks; and health. Ms. Brown criticized the claimant's clothing and her weight. Ms. Brown told Seth Ross: "No one wants to walk into a store and approach someone who looks like her when someone like you is standing right next to her." (Exhibit B) The claimant's store was either second or third in performance. The claimant was never given a written warning or disciplinary write-up during her tenure.

Approximately one week before she decided to quit her job, the claimant made a formal complaint to the regional manager, Franco Zizzo. She was assured by Mr. Zizzo that the matter would be handled in complete confidence. Mr. Zizzo did not keep the matter confidential. Other employees became aware the same day that a complaint had been filed against Ms. Brown. (Exhibit A)

Seth Ross quit his job on the same day as the claimant.

### **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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence established that it was the claimant who initiated the separation of employment in this case. The claimant submitted her resignation and that resignation was accepted by the employer. The issue is whether there was good cause attributable to the employer for the claimant's leaving her job.

As a general rule, a personality conflict between a supervisor and a claimant is not good cause attributable to the employer. In this case, however, the greater weight of the evidence showed that Ms. Brown's behavior toward the claimant indicated more than a personality conflict. Ms. Brown's criticism and actions crossed a line between responsible and necessary supervision and management and harassment. Although the claimant's co-employees did not testify, their statements concerning Ms. Brown corroborate the testimony of the claimant. Mr. Ross quit his job at the same time as the claimant.

A critical piece of evidence in this case is the email that the claimant sent to Franco Zizzo after she found out that her confidential complaint was not confidential and was not being seriously investigated. The claimant filed a complaint against Ms. Brown in an effort to resolve the situation. The claimant, in other words, gave the employer an opportunity to investigate before she resigned. The complaint almost immediately became news in the company and there is no evidence that any serious investigation was undertaken by Mr. Zizzo.

Given the treatment the claimant received by Ms. Brown and the employer's response to the claimant's complaint, the administrative law judge concludes that working conditions were

detrimental to the claimant. Good cause attributable to the employer for the claimant's voluntary quit is established. Benefits are allowed if the claimant is otherwise eligible.

**DECISION:**

The decision of the representative dated July 23, 2010, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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