

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONDA SCHROADER
Claimant

APPEAL NO: 12A-UI-05484-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMBRANDT ENTERPRISES INC
Employer

OC: 04/15/12
Claimant: Appellant (2)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Ronda Schroader (claimant) appealed an unemployment insurance decision dated May 4, 2012, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Rembrandt Enterprises, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 10, 2012. The claimant participated in the hearing with Attorney Sarah Reindl. The employer elected not to participate. Claimant's Exhibits A and B were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits?

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 employed as a full-time lab technician from February 4, 2010 through April 18, 2012. She voluntarily quit her employment after the employer failed to promptly respond to her complaints of sexual harassment. The employer hired a male employee in the fall of 2011 and while the claimant did not have to work with him directly, she did see him frequently. This employee "slapped her on the butt", picked her up and pressed his body up against hers. He made inappropriate comments about the size of his penis and something about finding his penis when he is urinating. He made vulgar comments about his wife and called a female employee a bitch.

In January 2012, the claimant reported his conduct to her supervisor and the human resources department but nothing was done about it as far as she could tell. The claimant tried to limit her contact with this employee but finally contacted the corporate office after additional sexual comments were made. The corporate office conducted an investigation and subsequently discharged the employee. Shortly thereafter, the claimant heard gossip that the employer had

received a complaint about this male employee prior to hiring him. Prior to the employer hiring this employee, a former female employee told the employer the man had sexually abused her in the past. The claimant consequently quit her employment.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit her employment on April 18, 2012 due to intolerable 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).

The evidence does support an intolerable work environment. The claimant reported the situation to the employer but no action was taken until she complained a second time to the corporate office. In addition to the sexual harassment, the fact that the employer knew of the work conditions but failed to act also constitutes an intolerable work condition.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has satisfied that burden. Benefits are allowed.

DECISION:

The unemployment insurance decision dated May 4, 2012, reference 01, is reversed. 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.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css