

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERREN D KIMMITT
Claimant

APPEAL NO. 08A-UI-10583-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WALGREEN CO
Employer

**OC: 10/05/08 R: 04
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated October 31, 2008, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on December 1, 2008. Claimant participated. Employer participated by Deb Shelburne, TALX Hearing Representative; Brian Soenksen, Loss Prevention Supervisor; and Joe Showalter, Store Manager.

ISSUE:

The issues in this matter are whether the claimant quit for good cause attributable to the employer and whether claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on September 9, 2008. Claimant quit because of dissatisfaction with working with a coworker. Claimant was sworn at and intimidated by this coworker. Claimant was put to a different shift. Claimant was eventually told she was receiving a written warning and would need to work with this coworker in the future. Claimant was told that she was an adult and she should work it out. Claimant was angry about the written warning. Claimant believed she was a victim and entitled to protection by the employer. Claimant did not want to work with the offending coworker ever again. Employer failed to accommodate claimant's fear of working with the coworker.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to the employer when claimant terminated the employment relationship because of an intolerable and detrimental working condition. Claimant was sworn at by a coworker. Claimant was intimidated and threatened by the behavior. Employer failed to take prompt and appropriate remedial action to alleviate the detrimental working condition. This

is a quit for cause attributable to employer due to detrimental working conditions. Benefits allowed.

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.

DECISION:

The decision of the representative dated October 31, 2008, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw