

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEVERY C COOK
Claimant

APPEAL 17A-UI-04487-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TOYOTA MOTOR CREDIT CORP
Employer

**OC: 03/26/17
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 24, 2017, reference 02, unemployment insurance decision that denied benefits based upon a voluntary resignation. The parties were properly notified about the hearing. A telephone hearing was held on May 17, 2017. Claimant participated. Employer did not participate.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on October 10, 2016. Claimant last worked as a full-time cashier administration clerk. Claimant was separated from employment on January 19, 2017, when she was terminated after giving her resignation notice.

Claimant initially worked for employer as a temporary employee. On October 10, 2016, claimant was hired as a permanent employee. Claimant is African American. Claimant was the only person who is African American working in her department. Claimant is 22 years old. Claimant was at least 20 years younger than all of the employees in the department.

From the beginning of claimant's employment, a co-worker named Julie, who is Caucasian and around 50 years old, did not like it when claimant attempted to help other employees with work. Julie gave claimant dirty looks and told on her to a supervisor every time claimant tried to help other co-workers with their work. Julie did not do this with other new employees.

There were several supervisors in the department. One of the supervisors, a Caucasian woman around 50 years old, subjected claimant to increased scrutiny. The supervisor monitored all of claimant's work closely, but did not do this with other new employees.

At the beginning of January 2017, claimant complained to another supervisor about the situation. The supervisor told claimant the women in question were territorial and she needed to

“deal with it.” After complaining to the supervisor, claimant saw Julie writing about claimant in an instant message on her computer.

The next week, on January 9, 2017, another co-worker, also a Caucasian woman around 50 years old, approached claimant and made tasteless jokes about and references to claimant's race. Claimant immediately reported the co-workers “jokes” to the human resources department. The department initiated an investigation.

Claimant sat next to the person who made the “jokes,” and knew she would eventually find out claimant reported her. Claimant felt uncomfortable in the work environment and did not believe employer would adequately address her concerns based on her previous complaint to her supervisor.

On January 12, 2017, claimant submitted a two-week resignation notice. Employer terminated her without reason on January 29, 2017.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code §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.

Iowa Admin. Code r. 871-24.26(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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). “Good cause” for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

In this case, claimant was subjected to disparate treatment from her co-worker and a supervisor for a period of months. When claimant complained about the treatment, her supervisor dismissed her concerns outright and the treatment continued. Claimant was then subjected to inappropriate comments regarding her race. Claimant has established the working environment was intolerable and/or detrimental to her wellbeing.

While a claimant does not have to specifically indicate or announce an intention to quit if her concerns are not addressed by the employer, for a reason for a quit to be “attributable to the employer,” a claimant faced with working conditions that she considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the

unacceptable condition in order to give the employer reasonable opportunity to address his concerns. *Hy-Vee Inc. v. Employment Appeal Board*, 710 N.W.2d 1 (Iowa 2005); *Swanson v. Employment Appeal Board*, 554 N.W.2d 294 (Iowa 1996); *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem it then has made the cause for quitting “attributable to the employer.”

In this case, claimant gave employer a reasonable opportunity to address her concerns when she first complained to her supervisor. Her concerns were dismissed outright and the conduct continued. Then an additional employee made tasteless comments to claimant regarding her race. Claimant complained to the human resource department. Although claimant did not wait to see what action human resources would take in response to her second complaint, she was not obligated to do so at that point. Claimant gave employer a reasonable opportunity to address her concerns when she first complained, and it failed to do so.

Claimant has established she resigned for a good cause reason attributable to employer. Benefits are allowed.

DECISION:

The April 24, 2017, reference 02, unemployment insurance decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible and the benefits withheld shall be paid.

Christine A. Louis
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Decision Dated and Mailed

cal/rvs