

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARILEE FABER
Claimant

APPEAL NO. 11A-UI-10554-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA CORPORATION
Employer

**OC: 01/09/11
Claimant: Respondent (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 4, 2011, reference 01, that concluded the claimant voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on September 6, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Eric VanVoorst participated in the hearing on behalf of the employer with a witness, Corey Elgersma.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full-time for the employer as a machine operator from August 5, 2002, to July 15, 2011.

On July 14, 2011, the claimant was training on a new machine. She was having problems clearing a jam in the machine. Another employee, Kim Mulder, was in the area. Mulder became upset that the claimant did not know how to clear the jam. She called the claimant a big dummy and struck her on the back of the head. This was the last straw for the claimant, who had been subjected to name calling by Mulder in the past.

The claimant reported what had happened to the department coordinator. She was too upset to talk to the department manager, Corey Elgersma, despite Elgersma's effort to talk to her. She worked the remainder of her shift.

On July 15, the claimant called and told Elgersma that she planning to come in that morning and talk to someone in human resources. She met with Elgersma and a human resources representative, Eric VanVoorst. She explained what Mulder had done and said the previous day and explained Mulder's past mistreatment of her.

The claimant asked to move to a different line so she would not have to work with Mulder. VanVoorst told her that she could not be moved until an investigation was conducted. Elgersma

was going to be on vacation the next week, so the claimant was told that the investigation would not begin until Elgersma returned. The claimant again told them that she could not work on the line with Mulder and requested to be moved to a different line. VanVoort insisted that he could not move her until the investigation was completed. The claimant was allowed to leave and to take the weekend to decide what she wanted to do.

The claimant called Elgersma on July 17, 2011, and told him that she was not going to return to work because of Mulder's treatment of her and the employer's unwillingness to move her to a different line.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

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 made a reasonable request to be separated from an employee who she had struck her on the back of the head. Since the employer did not intend to start the investigation until after Elgersma returned from vacation, the proper course of action would have been to have moved the claimant as requested so she did not have to encounter Mulder. The employer's failure to take this reasonable course of action created intolerable and detrimental working conditions. The claimant had good cause to quit.

DECISION:

The unemployment insurance decision dated August 4, 2011, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw