

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT K BROWN

Claimant

APPEAL NO. 08A-UI-10453-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

"NEWTON PIZZA RANCH INC

"NEWTON PIZZA RANCH

Employer

**OC: 09/21/08 R: 02
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Newton Pizza Ranch filed a timely appeal from an unemployment insurance decision dated October 27, 2008, reference 01, that allowed benefits to Scott K. Brown. After due notice was issued, a telephone hearing was held November 25, 2008 with Mr. Brown participating. Owner Troy Knight participated for the employer.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Scott K. Brown was employed by Newton Pizza Ranch from February 14, 2008 until he resigned on or about September 30, 2008. He was a full-time employee. The incident precipitating the resignation occurred on or about September 24, 2008. During a confrontation on that day Assistant Manager Amanda Andrews threatened to have her boyfriend assault Mr. Brown. Mr. Brown felt that the threat was credible. Attempts by Owner Troy Knight to diffuse the situation were unsuccessful.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does.

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.

The critical fact in this record is that an assistant manager threatened Mr. Brown with physical injury. While Mr. Knight testified that Ms. Andrews denied making the threat, Mr. Knight's hearsay testimony does not offset the claimant's firsthand sworn testimony that the threat had occurred. Ms. Andrews was not called to testify at the hearing. An individual need not work in an atmosphere that includes threats of violence. The presence of such threats creates intolerable or detrimental working conditions. Benefits are allowed. See 871 IAC 24.26(4).

DECISION:

The unemployment insurance decision dated October 27, 2008, reference 01, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs