

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHELLY M WEST

Claimant

A Y M INC

Employer

APPEAL NO. 07A-UI-06462-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/08/06 R: 03
Claimant: Respondent (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

A Y M (employer) appealed a representative's June 20, 2007 decision (reference 03) that concluded Shelly West (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 31, 2007. The claimant was represented by Thomas Duff, Attorney at Law, and participated personally. The employer was represented by Danita Grant, Attorney at Law, and participated by Marlene DoBraska, Human Resources Representative. The claimant offered four exhibits which were marked for identification as Exhibits A, B, C and D. Exhibits A, B, C and D were received into evidence.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

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 hired on January 15, 2007, as a full-time production worker. The claimant's co-worker stared at her and stood in her work area for long periods of time. She complained to her supervisor on March 5, 2007. A meeting occurred with the human resources representative and the co-worker was warned without the claimant's identity being divulged.

The behavior improved until approximately May 22, 2007, when the co-worker bought her dinner at work. The claimant complained in confidence to her supervisor and hoped for another meeting with the representative. Instead the supervisor broke the claimant's confidence and talked to the co-worker about her. The claimant's identity was disclosed to the co-worker.

The claimant was afraid and complained about the co-worker and the supervisor to the representative. The representative talked to the supervisor about the discloser and left on vacation. Before she left she provided the claimant with telephone numbers to call for her protection. The supervisor yelled at the claimant and warned her to be careful to whom she complained. On June 4, 2007, the claimant told the representative that she was quitting because she was fearful of the co-worker.

The employer did not talk to any employees who saw the co-worker's actions so the employer assumed the stalking did not occur. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

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.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of the co-worker's behavior. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's June 20, 2007 decision (reference 03) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css