

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMMY L KOERTING
Claimant

APPEAL NO. 11O-UI-00863-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NISSEN INC
Employer

OC: 09/12/10
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated October 11, 2010, reference 02, which held claimant not eligible to receive unemployment insurance benefits. A hearing was held on November 30, 2010. The employer participated by Ms. Wanda Garloff, General Manager. The claimant did not participate. A decision was issued by the administrative law judge on December 1, 2010 affirming the unemployment insurance decision. The matter was appealed to the Employment Appeal Board by the claimant. The matter was remanded for a hearing as the claimant was unable to participate in the initial hearing through no fault of her own. A hearing was held in compliance with the directives of the Employment Appeal Board via telephone conference call on March 15, 2011. The claimant participated. The employer participated by Ms. Wanda Garloff. Claimant's Exhibit One was received into evidence.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Tammy Koerting was employed by Nissen Inc., doing business as Taco Johns, from March 2008 until September 13, 2010 when she left employment due to dissatisfaction in the manner that she was being treated by the general manager and because she had been advised by a doctor to do so.

Ms. Koerting left her employment based upon what she reasonably considered to be repetitive, abusive statements that were made to her and about her by the company's general manager. Prior to leaving employment the claimant had gone to higher management, the company owner, to complain about Ms. Garloff's treatment of her. No changes took place. Ms. Garloff continued to make abusive statements to the claimant and about the claimant in the presence of other employees which caused the claimant embarrassment and humiliation.

Ms. Koerting left her employment after she was specifically advised by her physician to do so because of stress that the work environment was causing her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left employment 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.

An individual who voluntarily leaves their employment must first give notice to the employer of the reason for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). A claimant is not required to give notice of intention to quit due to an intolerable or detrimental working environment that the employer had or should have had reasonable knowledge of the condition. Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

Inasmuch as the evidence in the record establishes that Ms. Koerting complained not only to her immediate supervisor but to the company owner before leaving and no changes took place, the administrative law judge concludes that the claimant has established good cause attributable to the employer for leaving this employment. Benefits are allowed providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated October 11, 2010, reference 02, is reversed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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