

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LENNICE SURRATT
Claimant

APPEAL NO. 11A-UI-09931-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESTERN AND SOUTHERN LIFE INS CO
Employer

OC: 06/26/11
Claimant: Respondent (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Western and Southern Life Insurance Company (employer) appealed an unemployment insurance decision dated July 19, 2011, reference 01, which held that Lennice Surratt (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 22, 2011. The claimant participated in the hearing. The employer participated through Cynthia Williams, field associate relations manager, and Carolyn Saenz, senior paralegal. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time sales representative from October 12, 2009 through August 12, 2010. She voluntarily quit her employment due to detrimental working conditions.

The claimant quit on August 12, 2010 due to the ongoing harassment of Branch Manager Mike Johnson. He wanted the claimant to solicit previous clients from her old insurance business even knowing that would be a violation of a non-compete clause which she signed. Mr. Johnson repeatedly and frequently made derogatory and discriminatory remarks about the claimant's weight, hair, age, and appearance in general. He told her that certain people could wear jeans but "if you couldn't wear them and look good in them, don't wear them."

Mr. Johnson treated three young women in his office differently than he treated the claimant, but yet he asked the claimant to help teach these young women their jobs. He told the claimant he would not send the young women into a bad neighborhood but could send her into that neighborhood. When the claimant stopped helping the younger women due to the fact that her own commissions were suffering, Mr. Johnson stopped talking to her. He brought food and invited everyone to eat but her. The claimant wrote a complaint to human resources, but the work conditions did not change and she was forced to quit.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

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 claimant quit her employment on August 12, 2010 due to intolerable and detrimental working conditions. Branch Manager Mike Johnson harassed the claimant and discriminated against her and in favor of three young women with whom she worked. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4).

The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Any reasonable person would quit under like circumstances. Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The employer offered no evidence regarding the reasons for the claimant's voluntary separation and did not dispute her evidence. The claimant has satisfied her burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated July 19, 2011, reference 01, is affirmed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw