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

KRISTI M ANNETT
Claimant

APPEAL NO. 07A-UI-01183-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DJBCK INC
Employer

OC: 01/07/07 R: 03
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 29, 2007, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on February 20, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Michelle Wurth. Dave Krejchi participated in the hearing on behalf of the employer with a witness, Carrie McGill.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked full-time as a bookkeeper from April 2004 to January 6, 2007. The owner of the business is Dave Krejchi.

The claimant and other employees were involved in conducting an Inventory on November 24 and 25, 2006. The inventory was off by about $100,000. Krejchi was not informed about the discrepancy in the inventory until the following week.

Krejchi was upset by the fact that the claimant and the office manager, Michelle Wurth, did not immediately inform him about the discrepancy in the inventory and he was upset with the claimant because she had only spent about two hours on the inventory on November 25. He called the claimant and Wurth into a meeting on November 28. Krejchi expressed his anger toward them by yelling at them and calling them "pieces of shit." They were told that if they did not get their act together in a month, they would be dismissed. The claimant was extremely offended by this verbal abuse. Krejchi had never yelled at or directed profanity toward the claimant before, but she had witnessed him yell at and use profanity toward other employees in the past.

The claimant continued to work for the employer and was not subjected to verbal abuse from Krejchi again. On December 29, 2006, the employer's accountant discovered and reported to

Krejchi that the claimant had failed to submit payroll taxes for September, October, and November 2006, which resulted in penalties and interest.

The claimant received a final written warning for the payroll problem and other job deficiencies on January 2, 2007. Wurth was dismissed on January 5, 2007, and the accountant was hired to replace her.

After she received a final written warning and Wurth was fired, the claimant decided to quit her employment due to Krejchi's treatment and what she considered was unfair discipline. She submitted her resignation on January 10, 2006.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without 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.

The evidence fails to establish that the claimant quit due to intolerable working conditions. The profanity directed at the claimant was unwarranted and offensive. The problem is that this treatment had not happened before and the claimant continued to work afterward for well over a month and the treatment did not reoccur. She quit after she received the January 2 warning and Wurth was dismissed. The warning she received was justified. At the point the claimant quit, she did not have good cause attributable to the employer to leave employment.

DECISION:

The unemployment insurance decision dated January 29, 2007, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

_____
Steven A. Wise
Administrative Law Judge

_____
Decision Dated and Mailed

saw/css