

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNA K SHELLEY
Claimant

APPEAL NO. 11A-UI-07936-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

R & J CATERING LTD
Employer

OC: 12/10/10
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated June 6, 2011, reference 04, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on July 26, 2011. Claimant participated. Employer participated by Jeanine Buckingham, H. R. director.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant quit the employment effective May 4, 2011 because she was being subjected to illegal, detrimental, and intolerable harassment and sexual harassment from her manager. The employer did start to move on the claimant's complaints, but denied to claimant that the conduct was sexual harassment. Conduct included smelling her hair, asking her out after being told advances were unwanted, calling her even when she was not scheduled to work, flicking his tongue at her, inviting her to his hot tub, making physical remarks about the claimant, scheduling mandatory work meeting that only the claimant and he would show up for, et al.

REASONING AND CONCLUSIONS OF LAW:

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(3) and (4) provide:

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:

- (3) The claimant left due to unlawful working conditions.
- (4) The claimant left due to intolerable or detrimental working conditions.

The record establishes that the claimant quit with good cause attributable to the employer when the claimant quit due to illegal harassment, and detrimental and intolerable working conditions.

DECISION:

The decision of the representative dated June 6, 2011, reference 04, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/kjw