

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**DEBRA K PECHA
3510 N 9TH ST LOT 97
CARTER LAKE IA 51510**

**KWIK SHOP INC
C/O EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000**

**Appeal Number: 04A-UI-09187-H2T
OC: 07-18-04 R: 01
Claimant: Appellant (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 18, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 15, 2004. The claimant did participate. The employer did participate through Jimmy Lewis, Regional Operations Manager, and was represented by Lesley Buhler of Employers Unity. Employer's Exhibit One was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a district advisor full time beginning January 17, 2003 through June 10, 2004 when she voluntarily quit. The claimant quit because on June 10, 2004 she was

in a store having a discussion with her supervisor, Mr. Lewis, who was treating her in an intolerable manner. Mr. Lewis was yelling at the claimant loudly enough that customers who were in the front of the store could hear him yelling. Mr. Lewis was yelling at the claimant and telling her she was not doing her job, that she had falsified documents and was not telling the truth. While yelling at the claimant, Mr. Lewis was poking his finger into her chest. After this conversation went on for a while, the claimant said "I can't take this anymore and walked out." The claimant had no previous history of discipline with the company until one of the managers who worked for her was disciplined for improper banking policies.

Mr. Lewis had treated the claimant poorly in the final months of her employment. Almost three weeks prior to her departure, the claimant complained to upper management about the way that the claimant was treating her. The claimant had complained to Barb in the human resources department about the way Mr. Lewis was treating her. Barb was to meet with Mr. Lewis to address the claimant's concerns as well as other employees concerns. Prior to Barb meeting with Mr. Lewis, the claimant reached the end of her rope and quit.

When the claimant returned to the store later that evening to collect her notebook, she was told by Shelia, another employee, that she and the customers had heard what and how Mr. Lewis was treating her.

REASONING AND CONCLUSIONS OF LAW:

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

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 was obliged to notify the employer of a work related problem prior to quitting and to give the employer an opportunity to address the problem. Swanson v EAB, 554 NW. 2d 294 (Iowa App. 1996). The claimant complained to management about her treatment at the hands of Mr. Lewis prior to quitting. By yelling, screaming and poking the claimant in the chest, Mr. Lewis created an environment that was intolerable for the claimant. Her leaving was with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The August 18, 2004, reference 01, decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

tkh/tjc