

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**LILA ELDER**  
Claimant

**PELLA CORPORATION**  
Employer

**APPEAL 21A-UI-07948-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/25/20**  
**Claimant: Appellant (2)**

Iowa Code § 96.5-2-a – Discharge for Misconduct  
Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Lila Elder (claimant) appealed an Iowa Workforce Development March 9, 2021, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits after a separation from work with Pella Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 28, 2021. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The administrative law judge took official notice of the administrative file.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from August 19, 2019, to October 13, 2020, as a full-time assembler. She signed for receipt of the employer's handbook and listened to the employer's educational videos regarding workplace harassment. The employer indicated it did not tolerate workplace harassment.

The claimant worked near an employee, Charlie. Charlie's behavior made the claimant feel uncomfortable. He peeked at her through shelving and stared at her. He said that he liked watching her. He commented on her unusual expressions. Charlie said that she made faces when she worked and he wanted to know what impure thoughts she had when she made those faces. Charlie took his break at the same time as the claimant and walked with her and her co-workers. One day during the walk it was raining. Charlie commented they would have to get naked if they got wet. The claimant made a complaint to the employer's Human Resources Department regarding harassment. She learned Charlie had previous harassment complaints from co-workers.

The claimant last worked on October 13, 2020. She was absent due to illness on October 14, 15, and 16, 2020. On Monday, October 19, 2020, the claimant called the Human Resources Department to ask about the procedure for returning to work after illness during the pandemic. During the call, the employer told the claimant that it had spoken to Charlie. The employer told the claimant to “take the high road in the situation”. The employer was going to do nothing, even though the claimant was willing to transfer to another area. The claimant quit work to avoid working in the hostile environment.

### **REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(4) provides:

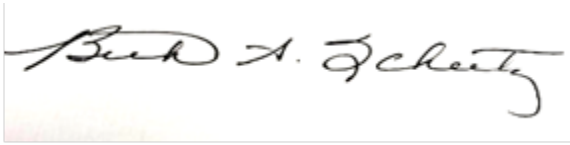
Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

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

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of Charlie's intolerable words and actions. The employer told the claimant she would have to ignore his behavior. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided she meets all the qualifications.

**DECISION:**

The representative's March 9, 2021, decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed as of October 25, 2020, provided claimant is otherwise eligible.

A handwritten signature in black ink, reading "Beth A. Scheetz", is positioned above a horizontal line.

---

Beth A. Scheetz  
Administrative Law Judge

June 11, 2021  
Decision Dated and Mailed

bas/kmj