

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADRIENNE L HERBERT
Claimant

APPEAL NO. 11A-UI-14703-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**"AMERICAN EDUCATION CENTERS INC
c/o ADP UNEMPLOYMENT GROUP**
Employer

**OC: 10/02/11
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

American Education Centers, Inc. filed a timely appeal from a representative's decision dated October 26, 2011, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on December 8, 2011. Claimant participated personally. Participating as witnesses for the claimant were Ms. Lori Kirlin, Ms. Kam Williams, and Ms. Amber Carlson. The employer participated by Mr. Kareem Odukale, Campus President.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Adrienne Herbert was employed by American Education Centers, Inc. d/b/a Brown Mackie College from September 8, 2008 until September 6, 2011 when she voluntarily left employment. Ms. Herbert was employed as the full-time library director and was paid by salary. Her immediate supervisor was Mr. Greg Smith.

Ms. Herbert left her employment with the captioned employer after a series of events led her to conclude that the working conditions were detrimental to her.

Ms. Herbert, at times, had been confronted in an angry way by her immediate supervisor, Greg Smith. Mr. Smith had often raised his voice while addressing Ms. Herbert and the claimant felt intimidated by her immediate supervisor. Prior to leaving her employment, Ms. Herbert had been given a "retention improvement plan" which appeared to make Ms. Herbert 100% responsible for insuring that students were not leaving the institution and/or not reporting for classes. When Ms. Herbert questioned her supervisor as to why those duties were not more properly assigned to a "student advisor" Mr. Smith had responded that the claimant was expected to perform those duties. Mr. Smith had also stated to the claimant that the employer's expectations on the retention improvement plan had been expected of library directors in other

of the company's other educational facilities in the same manner as the expectations had been presented to Ms. Herbert. When the claimant determined that these statements were not truthful and noted that the college had placed an ad in the local paper appearing to advertise the claimant's job position she left her employment. Claimant had been repeatedly feeling ill because of the stress associated with the new duties being required of her and the manner in which her supervisor was treating her. Prior to leaving the employment Ms. Herbert had gone to the campus president, Mr. Odukale and also had spoken to the college's human resource department regarding her concerns. When no changes were forthcoming, Ms. Herbert relinquished her position with the educational institution.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily left employment with good cause attributable to the employer.

Iowa Code § 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 has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves her employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). Claimants are not required to give notice of intention to quit due to intolerable, detrimental or safe working environments if the employer had or should have had reasonable knowledge of the condition. Hy-Vee, Inc. v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2000).

The claimant quit her employment on September 6, 2011 after she had gone to the campus president as well as to the college's human resource department with concerns about the manner in which her immediate supervisor was treating her and with concerns about duties that did not appear to be within her job description. The claimant was concerned about portions of the college retention improvement plan that appeared to make the claimant 100% responsible for the actions of students regarding retention and/or reporting for classes. When the claimant's immediate supervisor confirmed that she would, in fact, be responsible for the provisions of the retention improvement plan that had been given to her and the claimant determined that other library directors employed by the educational institution were not being held to the same standard, she quit her employment. The claimant had felt intimidated by her immediate supervisor for a substantial period and those conditions had not changed although she had brought the matter to the attention of the employer.

Quits due to intolerable or detrimental working conditions are deemed to be for a good cause attributable to the employer. 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 Board, 494 N.W.2d 660 (Iowa 1993). Aside from quits based upon medical reasons prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required.

Based upon the evidence in the record, the administrative law judge concludes that the claimant has sustained her burden of proof in establishing the working conditions were detrimental and that she had attempted to secure change in the working conditions before leaving. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's decision dated October 26, 2011, reference 01, is affirmed. Claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs