

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACLYN C JOKERST
Claimant

APPEAL NO. 08A-UI-08252-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FASTENAL CO INC
Employer

OC: 08/10/08 R: 04
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Jaclyn C. Jokerst filed a timely appeal from an unemployment insurance decision dated September 10, 2008, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held September 30, 2008, with Ms. Jokerst participating. The employer, Fastenal Company, Inc., provided the name and telephone number of a witness. The witness' telephone line was answered by a recording. The administrative law judge left instructions for the witness to call if the witness wished to participate. There was no further contact from the employer prior to the closing of the record.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Jaclyn C. Jokerst was employed part-time by Fastenal Company, Inc., from October 1, 2007, until she resigned May 23, 2008. The reason she stated in an exit interview for leaving the company was to move. At the time that she resigned, she intended to do so. Eventually, however, she did not.

There was a second reason for the resignation. A few weeks before the resignation, a coworker dropped a penny down her pants. Her supervisor stood by, observing what was happening, and laughed. Ms. Jokerst had not said or done anything to lead the coworker to believe that his actions were appropriate. Ms. Jokerst felt uncomfortable raising the issue to management because of the participation of her direct supervisor in the incident.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does.

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.

An individual may receive unemployment insurance benefits if the individual leaves employment voluntarily because of intolerable or detrimental working conditions. See 871 IAC 24.26(4). The evidence in the record persuades the administrative law judge that the actions of the coworker, coupled with the response of the claimant's supervisor, created intolerable and detrimental working conditions. Sexual harassment need not be tolerated, especially in the workplace. Benefits are allowed.

Approximately a half-hour after the hearing ended, the employer's witness contacted Appeals. He stated that he had not answered his phone because he had set it on "silent." The administrative law judge declined to re-open the record.

DECISION:

The unemployment insurance decision dated September 10, 2008, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw