

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORIE CRAMER
Claimant

APPEAL NO: 11A-UI-11617-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**OC: 07/24/11
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Lorie Cramer (claimant) appealed an unemployment insurance decision dated August 26, 2011, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Tyson Fresh Meats, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 27, 2011. The claimant participated in the hearing. The employer participated through Susan Pfeifer, Human Resources Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time load controller/inventory clerk from January 4, 1996 through May 5, 2011. She quit her employment due to the stalking and harassment of co-worker Gary Petrovich. Since 2008, Mr. Petrovich targeted the claimant and anyone around her. He turned in her co-workers and friends for any safety violations or anything else he could. Everywhere the claimant went, Mr. Petrovich was there.

The employer announced in the early part of February 2011 that the load controller position was being changed from first to second shift. The claimant believed the shift change was because of her complaints but she later thought it might help the situation. However, she went on vacation on February 20, 2011 and was taken off work by her physician on February 28, 2011 due to non-work-related medical reasons. Mr. Petrovich continued to harass the claimant and her children away from the work site, and in fact, most of what he did was outside of work hours. The claimant even moved from her home into an apartment to get away from him but it made no difference.

The claimant returned to work on May 2, 2011 and worked the second shift. Mr. Petrovich harassed her children that evening and he harassed the claimant on the following morning. She could not take it any longer so stopped reporting to work. The claimant never contacted the employer again.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

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.

The claimant voluntarily quit her employment as of May 5, 2011 due to the harassment of a co-employee. While the claimant met this co-employee at work, most of the harassment occurred outside of work. It is truly unfortunate that the claimant is being subjected to this type of treatment from a sick individual but the liability for this co-employee's conduct outside of work cannot be placed on the employer.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated August 26, 2011, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs