

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

KIMBERLY A MATEJCEK  
1226 LE CLAIRE ST  
DAVENPORT IA 52803

BOSTON WINDOW CLEANING INC  
THE MILLARD GROUP  
7301 N CICERO AVE  
LINCOLNWOOD IL 60712

BOSTON WINDOW CLEANING INC  
c/o PERSONNEL PLANNERS INC  
PO BOX 803937  
CHICAGO IL 60680-3937

Appeal Number: 04A-UI-08062-CT  
OC: 06/20/04 R: 04  
Claimant: Respondent (4)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Boston Window Cleaning, Inc. filed an appeal from a representative's decision dated July 12, 2004, reference 01, which held that no disqualification would be imposed regarding Kimberly Matejcek's separation from employment. After due notice was issued, a hearing was held by telephone on August 17, 2004. Ms. Matejcek participated personally. The employer participated by Eric Henry, Regional Manager, and Richard Parker, Supervisor. The employer was represented Laura Gawronski of Personnel Planners, Inc.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Matejcek was employed by Boston Window Cleaning, Inc. from December 30, 2003 until June 17, 2004. She worked approximately 20 hours each week as a custodian. At approximately 5:20 p.m. on June 17, Richard Parker spoke to Ms. Matejcek regarding the trash bags she was using. There were problems with some of the bags she was using and she was cautioned to be sure to use the proper bags.

When Mr. Parker looked for Ms. Matejcek later, she could not be found. Her sister, also an employee of the company, indicated that Ms. Matejcek had walked past her at approximately 6:30 p.m. and indicated she was quitting. On June 15, Ms. Matejcek had complained to Eric Henry that she felt Mr. Parker was harassing her by having only her perform additional duties after her regular work was completed. Mr. Henry indicated he would try to find a different placement for her. She did not contact Mr. Henry on or after June 17. Continued work would have been available if Ms. Matejcek had not quit.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Matejcek was separated from employment for any disqualifying reason. She contended that she was discharged and the employer contended that she quit. Most persuasive is the statement her sister gave the employer which indicated that Ms. Matejcek told her she was quitting. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1). Ms. Matejcek quit after Mr. Parker spoke with her about using the appropriate trash bags. The administrative law judge concludes, therefore, that she quit because she was reprimanded. An individual who leaves employment under such circumstances is presumed to have quit for no good cause attributable to the employer. See 871 IAC 24.25(28).

Ms. Matejcek had complained to her regional manager on June 15 about being harassed by Mr. Parker. Although Mr. Henry indicated he would find her a different placement, Ms. Matejcek quit before that could occur. Therefore, if there was harassment, Ms. Matejcek deprived the employer of a reasonable opportunity to resolve the matter before quitting on June 17. After considering all of the evidence, the administrative law judge concludes that Ms. Matejcek has failed to establish that she had good cause attributable to the employer for quitting.

An individual who voluntarily quits part-time employment without good cause attributable to the employer may nevertheless qualify for job insurance benefits if there are sufficient other wage credits to establish a valid claim. See 871 IAC 24.27(96). Wage credits earned with the part-time employer that was quit may not be used on the claim until such time as the individual requalifies by earning ten times the weekly benefit amount in insured wages after the disqualifying separation. Ms. Matejcek's employment with Boston Window Cleaning, Inc. is not part of her base period. As such, wages earned in that employment have not been used to determine her eligibility for job insurance benefits. Because Ms. Matejcek remains monetarily eligible for benefits without consideration of her wages earned with Boston Window Cleaning, Inc., she is entitled to job insurance benefits. Such benefits shall not be charged to the employer's account.

DECISION:

The representative's decision dated July 12, 2004, reference 01, is hereby modified. Ms. Matejcek voluntarily quit her part-time employment for no good cause attributable to the employer but has sufficient other wage credits to establish a valid claim. Benefits are allowed, provided she satisfies all other conditions of eligibility, but shall not be charged to Boston Window Cleaning, Inc.

cfc/b