

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LAUREN L HAWES**  
Claimant

**APPEAL NO: 13A-UI-11239-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SAYLES SALES & SERVICE INC**  
Employer

**OC: 09/08/13**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.26(4) – Intolerable/Detrimental Working Conditions

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated September 27, 2013, reference 01, that held she voluntarily quit without good cause effective September 9, 2013 and benefits are denied. A telephone hearing was held on October 30, 2013. The claimant participated. Everett Sales, Owner, Edie Petersen, Bookkeeper, Monte Sales Mechanic, and Diana Reinsch, Attorney, participated for the employer. Employer Exhibit 1 was received as evidence.

**ISSUE:**

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant worked for the employer as a full-time office manager from January 24, 2012 to September 9, 2013. About January of this year, claimant began having issues with the employer owner related to his inappropriate behavior toward her.

Claimant is married with four children. Her father and the employer owner know one another and are friends. Claimant noted the owner would have her stay at work after hours after other employees left and she did accompany him to late night auctions. She also went with him to the gym for workout sessions.

She began to feel uncomfortable when the owner would follow her to work from her house. She confronted him about it but the behavior did not stop. She contacted the police but no action was taken due to a lack of evidence.

The owner gave claimant his cell phone and asked she clear pornography recorded on it. He touched her boobs and slapped her bottom. On Friday September 6 claimant left her cell phone at home and when she returned to get it she saw the owner had been following her. Although claimant did not want to leave her job, she challenged the owner at work on Monday, September 9. After a heated exchange of words she handed him a separation notice that day and she was leaving employment effective September 23. The owner told claimant to go home and she did.

Claimant observed the owner driving by her house after September 9. She has filed a criminal sexual harassment complaint against the employer owner.

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

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.

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 administrative law judge concludes claimant voluntarily quit with good cause attributable to the employer on September 9, 2013 due to detrimental and intolerable working conditions.

Incidents of sexual harassment are not always readily visible to third parties. The employer owner admits he had claimant delete pornography from his cell phone that creates an inference he wanted claimant to share it. While the owner denies inappropriate claimant touching she was able to offer sufficient detail about him touching her breasts and butt to make it credible. It is also questionable why the owner would accompany claimant on gym workouts, keep her at work after the other employees had left and would have her with him at late night auctions.

Claimant was able to describe the employer vehicle(s) that add credibility he was following her from her house to work on repeated occasions. It is understandable claimant withheld her complaints to keep her job until the Friday following to work incident showed the owner was not going to stop his behavior(s). She gave notice in an attempt to leave on amicable terms, but the owner response telling her to go home demonstrated hostility to the point claimant would no longer hide the sexual harassment she had suffered.

**DECISION:**

The department decision dated September 27, 2013, reference 01, is reversed. The claimant voluntarily quit with good cause attributable to the employer effective September 9, 2013. Benefits are allowed, provided claimant is otherwise eligible.

---

Randy L. Stephenson  
Administrative Law Judge

---

Decision Dated and Mailed

rls/pjs