

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COURTNEY COX
Claimant

APPEAL NO. 17A-UI-02057-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LAKES VENTURE LLC
Employer

OC: 01/29/17
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Lakes Venture (employer) appealed a representative's February 15, 2017, decision (reference 01) that concluded Courtney Cox (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 17, 2017. The claimant participated personally. The employer was represented by Pamela Drake, Hearings Representative, and participated by Corky Anderson, Director of Operations; Steven Bourbon, Store Director; and Melissa Johnson, Director of Human Resources. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 hired on February 22, 2016 as a full-time store administrator. The employer has a non-harassment policy and an open line to hear concerns of employees. The employer only investigates concerns of the open line if the call is not anonymous.

The claimant complained about her assistant store director, Steven Bourbon, to her store director and the director of operations. The store director recognized that Mr. Bourbon created an "uneasy working atmosphere". He talked to Mr. Bourbon, but nothing changed. The claimant complained to the director of operations repeatedly about Mr. Bourbon yelling at her and incorrectly telling her she was not performing her job duties. The director of operations investigated twice and found nothing out of the ordinary. The claimant felt Mr. Bourbon's treatment of her became more hostile after the complaints. The store director felt the director of operations should handle the assistant. The claimant did not call the open line, because she had already spoken to her supervisors.

In January 2017, Mr. Bourbon was promoted to store director and continued his behavior. On January 31, 2017, at about 8:30 a.m., the claimant was ill. She asked Mr. Bourbon if she could go home and use sick leave. Mr. Bourbon told her to "buck up" because he expected more out of her. He would not approve any sick leave. Shortly thereafter he allowed her to leave work. She feared how he would treat her the following day. Later that evening she resigned.

The claimant filed for unemployment insurance benefits with an effective date of January 29, 2017. The employer participated personally at the fact-finding interview on February 14, 2017, by Corky Anderson and Steven Bourbon.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work 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.

Iowa Admin. Code r. 871-24.26(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 law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of the hostile work environment. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the claimant's testimony to be more credible. She provided witness statements to corroborate her testimony. The operations manager remembered her repeated complaints. Mr. Bourbon was the only witness who did not remember much conflict.

DECISION:

The representative's February 15, 2017, decision (reference 01) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs