

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOYCE A MOBLEY
Claimant

APPEAL NO. 07A-UI-03025-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CMC STEEL FABRICATORS INC
SMI JOIST COMPANY
Employer

OC: 02/18/07 R: 03
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 19, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 25, 2007. Claimant participated and was represented by Gary Papenheim, Attorney at Law. Employer participated by Mandy Mott, Benefits Coordinator. Exhibits A, B, and One were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on December 7, 2006. Claimant quit because she was being harassed by a coworker. Claimant made multiple complaints to a supervisor concerning the harassment. Claimant was repeatedly called names such as “fucking retard” by a coworker. Employer failed to take prompt remedial action concerning the harassment.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of intolerable and detrimental working conditions. Constant name-calling is harassment. This is an intolerable working condition. This is good cause attributable to employer for a quit, as employer did nothing to alleviate the harassment after reasonable notice. Notice to a supervisor is notice to the employer. Benefits allowed.

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.

DECISION:

The decision of the representative dated March 19, 2007, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw