

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CASSANDRA M MANCHESTER
Claimant

APPEAL NO. 09A-UI-11167-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FLYING J INC
Employer

OC: 06/28/09
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 29, 2009, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on August 20, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Lori Smith participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer as a server from April 1, 2009, through July 2, 2009. Lori Smith was the restaurant manager.

On June 28, 2009, the claimant and a cook named Rick got into a verbal argument about the quality issues with the food Rick was preparing. At some point, Rick struck the claimant in the face with an open hand. This was done in the presence of a manager, Carla, who had to hold Rick back to keep him from going after the claimant. Carla assured the claimant that she was writing a note for Smith to handle the situation.

The claimant was scheduled to work from 7:00 p.m. to midnight on July 2. That afternoon when she came in to pick up her check, she discussed with Smith what had happened on June 28. Smith told the claimant that she would handle the matter.

Shortly after she reported to work, the claimant overheard Rick talking to the manager on duty, Mehleah, and heard him say, "I want to smack that bitch," referring to the claimant. The claimant heard Mehleah respond, "she's not worth it." When the claimant spoke to Mehleah about what Rick had said, Mehleah told her that they just had to get along and stop pushing each other's button.

The claimant then left work because the employer had taken no effective action to correct the situation with Rick.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause. The law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant had good cause attributable to the employer for quitting based on Rick's physical violence toward her and his threat of physical violence and the employer's failure to take effective action to correct the situation. Some more than "you need to get along" was clearly required under the facts of this case.

DECISION:

The unemployment insurance decision dated July 29, 2009, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css