

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**BRENT A SPENCER**  
Claimant

**1ST CLASS SECURITY INC**  
Employer

**APPEAL NO. 16A-UI-12503-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/23/16  
Claimant: Appellant (2)**

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Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated November 16, 2016, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 8, 2016. Claimant participated and had witnesses Gabe Beyard, David Jarvinen. Employer participated by James M Carlson and Cory Gilmore. Claimant's Exhibit A was 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 considered all of the evidence in the record, finds: Claimant last worked for employer on October 20, 2016. Claimant voluntarily quit his work on October 21, 2016 after he was told that he was being put on a three day suspension while an investigation was being conducted regarding claimant's actions against the manager of a store where claimant ran loss prevention.

Claimant worked as an area manager in charge of loss prevention for multiple stores including a Menards in Council Bluffs. At times claimant would man the video room in the store in an attempt to aid the client (Menards) catch potential thieves. Claimant's problems that led to his quitting occurred because the general manager of the Menards treated claimant poorly on multiple occasions, and claimant's employer did nothing to act against the general manager or support claimant.

On or around October 11, 2016 claimant was watching the video of a Menards customer who appeared that he might be preparing to steal drill bits. At the same time, an African American customer was attempting to steal an air tool from another part of the store. Claimant had not focused on this gentleman, and he came close to successfully stealing the product. The general manager yelled at claimant as air tools are worth much more than drill bits, and the person attempting to take the air tool was an African American. The general manager stated that African Americans needed to be watched. When claimant wrote up the incident report

surrounding the attempted theft, he included information concerning the general manager's statements about African Americans. Employer asked claimant to remove all information surrounding the general manager's statements. Claimant was felt insulted, both by the general manager who yelled at him, and at his own bosses who asked claimant to remove a part of the report he'd prepared.

On or about October 20, 2016 claimant claimed he was assaulted by the general manager, who claimant said hit him with a box. A customer was allegedly stealing product from the store, and this theft was not detected by the loss prevention team. The store general manager came into the video room where claimant and a coworker were working, holding the empty box. The general manager was screaming and very upset. Claimant said that the general manager threw the box down and it hit claimant in the leg. Claimant went to the local police station and filed a report against the general manager after the incident for assaulting him. The general manager stated to employer that he did not want claimant back into the store. The employer then met with claimant the next day, and explained to claimant that they were putting claimant on a three day unpaid suspension while they looked into the issue. (Employer did state that as claimant was not going to be working for two of the days, it would be effectively a one day suspension.) Claimant stated that if he was going to be suspended, then he would just go ahead and quit.

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

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.

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 he was placed on suspension after having filed an incident report with police after he believed he was assaulted by the Menards general manager when said manager threw a box that hit claimant in the leg. Employer stated that the general manager responded to the police report by banning claimant from the store. Employer stated that it was necessary to explore the situation more fully, and the suspension would allow employer to further explore the situation without claimant's intrusions into the investigation.

The administrative law judge received no testimony that claimant's suspension was based on misdeeds on the part of claimant. Employer did not say that claimant was suspended because he missed a person stealing items from Menards. Employer did not decide to switch claimant to other stores while the investigation was ongoing; rather employer decided that claimant wouldn't be allowed to come to work at all during that time. This denial of work for no reason attributable to claimant's output created an unfair work environment for claimant and made claimant's decision to quit attributable to employer.

#### **DECISION:**

The decision of the representative dated November 16, 2016, reference 01, is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

bab/rvs