

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUANE LAIDIG

Claimant

APPEAL NO. 07A-UI-01467-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SARA LEE CORPORATION

Employer

OC: 12/17/06 02)

Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Duane Laidig, filed an appeal from a decision dated February 8, 2007, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 26, 2007. The claimant participated on his own behalf. The employer, Sara Lee Corporation, participated by Human Resources Manager Eric Felkner.

ISSUE:

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

FINDINGS OF FACT:

Duane Laidig was employed by Sara Lee from February 2006 until January 18, 2007. He was a full-time production worker on the 8:30 p.m. to 5:00 a.m. shift. He received a copy of the employee handbook during his employment which sets out the policies regarding workplace violence and the proper procedure to follow to report any complaints. He was also aware of a memo posted throughout the plant in late July 2006 which clarified the policy.

The claimant did talk to a lead person, Steve Martinez, at an unknown date to complain about another employee pinching him. A lead person is not in the official “chain of command” for such matters, but he said he would look into it. He later said he had done so but did not specify what, if anything, was done.

After that complaint Mr. Laidig indicated there were other incidents of “horseplay” but did not specify what they were. He did not bring any complaints to any member of management although he had the option of calling a toll-free number anonymously, speaking with his supervisor, the general manger or the human resources department. There was also an “open door” policy in effect at the plant which meant he could to go any member of management. He did not do so because he believed, for reasons he did not actually know, that it might cause him to be disciplined or fired.

On January 18, 2007, another worker rapped him on the back of his hardhat at three different times during the shift. Mr. Laidig requested him to stop but he did not. After the third time he went to the human resources department and notified his supervisor, Oscar Martinez, and

Human Resources Manager Gary Loden, he was quitting. He asserted harassment but stated he did not "want to get into it" and left without filing a complaint.

The employer's policy is to investigate every complaint brought to the attention of management. If the complaint of violence is founded, the responsible employee is fired.

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.

The claimant was well aware of the employer's policy of zero tolerance of workplace violence. Instead of taking advantage of the open door policy, or even the anonymous reporting line, he elected to take no action regarding the harassment he felt he was being subjected to, other than making a statement to a lead person, who was not a member of management. He had the opportunity to file a complaint on January 18, 2007, because he spoke with his supervisor and the human resources manager to say he was quitting, but he did not do so. His concerns that a complaint might endanger his job appear to be groundless, but if he was genuinely concerned, he could have availed himself of the anonymous reporting line, but did not do so.

Mr. Laidig's complaints may have been legitimate. However, he did not bring these complaints to the attention of the proper management personnel to allow the employer the opportunity to investigate and issue appropriate discipline. Good cause attributable to the employer would exist in a situation like this only if the employer did not properly investigate the complaints and take corrective action. As the claimant did not give the employer notice of his concerns, his decision to quit cannot be considered to be with good cause attributable to the employer and he is disqualified.

DECISION:

The representative's decision of February 8, 2007, reference 02, is affirmed. Duane Laidig is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css