

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM J SMITH
Claimant

**RAVION INC
PRIME MART**
Employer

APPEAL NO: 10A-UI-10974-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 0/704/10
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(4) – Intolerable/Detrimental Working Conditions

STATEMENT OF THE CASE:

The employer appealed a department decision dated July 28, 2010, reference 01, that held the claimant voluntarily quit with good cause attributable to his employer on June 4, 2010, and benefits are allowed. A telephone hearing was held on November 15, 2010. The claimant participated. Shahid Chatha, Owner, participated for the employer.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant most recently worked for the employer as a full-time cashier from September 21, 2009 to June 4, 2010. The claimant was assaulted by a co-worker at the employer store in late May 2010. The Waterloo police came to the store and investigated the incident. An assault charge was filed against the co-worker, and the Black Hawk County attorney urged the employer to seek a restraining order to keep him away from the premises at claimant's request. The employer terminated the co-worker but did not approve the restraining order knowing that he did carry a firearm.

The claimant observed the co-worker driving through the employer parking lot after the initial assault incident and he re-affirmed his request for the restraining order. When the employer declined, he left employment.

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.

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.

The administrative law judge concludes the claimant voluntarily quit with good cause attributable to her employer due to a detrimental working condition on June 4, 2010.

The employer has a duty to provide the claimant a safe place to work. While having a restraining order against a former employee does not insure the claimant's safety it is a measure that gives the claimant and any other employee the basis to contact law enforcement if it is violated. The claimant was helpless when observing the former employee who assaulted him drive through the parking lot, and this constitutes a detrimental working condition.

DECISION:

The department decision dated July 28, 2010, reference 01, is affirmed. The claimant voluntarily quit with good cause attributable to his employer on June 4, 2010. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css