

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACOB W DICKSON
Claimant

APPEAL NO. 07A-UI-02431-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

APAC CUSTOMER SERVICES INC
Employer

OC: 02/04/07 R: 03
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

APAC Customer Services, Inc. (employer) appealed a representative's February 27, 2007 decision (reference 01) that concluded Jacob W. Dickson (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 27, 2007. The claimant participated in the hearing. Sue Lester, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on September 25, 2006. The claimant worked as a full-time customer service representative. The claimant's supervisor was B.F.

The claimant and his co-workers worked in an area that was generally cooler than other locations in the employer's facility. The claimant did not notice how uncomfortable his work environment was until the weather became very cold in late December or January. The temperature in the claimant's work area ranged from 55 to 63 degrees. According to the thermometer the claimant brought, the temperature around his feet ranged from 38 to 45 degrees.

The claimant complained about the temperature at work. The claimant understood he and his co-workers were going to be relocated to another area on February 9. The claimant asked and did not understand why the employer did not allow the claimant and others to work in another area of that floor that was smaller and the claimant believed was heated. To heat the area

where the claimant worked, the employer opened a door to a storage room so heat generated by an electronic heater in the storage room would filter into the work area where the claimant worked. When the employer did this, overhead fans started which resulted in the claimant feeling colder rather than warmer.

On January 30, 2007, the claimant again went to his supervisor to complain about the cold work environment. A facilities manager had recently told B.F. that opening the door to the storage room was not adequately heating the claimant's work area. When the claimant again complained about the uncomfortably cold work environment, B.F. told the claimant to sit down and shut up. The claimant's supervisor verbally abused the claimant. Although B.F.'s supervisor was present and witnessed the verbal abuse, nothing was said or done to B.F.

When B.F.'s supervisor did not say or do anything after B.F. verbally abused the claimant, the claimant quit. If B.F. had not verbally abused the claimant on January 30 or his supervisor had done something, the claimant would not have quit.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause. Iowa Code § 96.5-1. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive unemployment insurance benefits. The law presumes a claimant voluntarily quits with good cause when he leaves employment due to intolerable or detrimental working conditions. 871 IAC 24.26(4).

The facts establish the claimant quit his employment on January 30, 2007. Since the employer's witness was not present during the January 30 incident, the claimant's testimony must be given more weight than the testimony the employer presented. A preponderance of the evidence establishes the claimant had been complaining about the temperature of his work place for justifiable reasons. Since B.F. was not present, the facts do not establish why he talked to the claimant in the manner he did on January 30, 2007. B.F.'s treatment of the claimant on January 30 in addition to the cold working conditions establishes that the claimant quit his employment for reasons that qualify him to receive unemployment insurance benefits. As of February 4, 2007, the claimant is qualified to receive unemployment insurance benefits.

The employer is not one of the claimant's current base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's February 27, 2007 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance

benefits, provided he meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css