

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMIE L TUCKER
Claimant

APPEAL NO. 09A-UI-01072-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**THE RESTAURANT CO
PERKINS RESTAURANT & BAKERY**
Employer

**OC: 12/28/08 R: 03
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated January 16, 2009, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 23, 2009. Claimant participated. Employer participated by Kevin Miller, General Manager.

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 November 28, 2008. Claimant was called names by a coworker. Claimant was called a cockroach, fool and nasty pregnant woman. Claimant complained to management several times concerning the verbal harassment. Employer made attempts to resolve the conflict to no avail.

REASONING AND CONCLUSIONS OF LAW:

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 of intolerable and detrimental working conditions. Claimant's version was in person and under oath. Employer only had hearsay to refute claimant's assertions. As such claimant's version is found correct. Claimant has established intolerable and detrimental working conditions due to verbal abuse. Benefits allowed.

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.

DECISION:

The decision of the representative dated January 16, 2009, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs