

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERTA YOUNG**  
Claimant

**APPEAL NO. 07A-UI-06278-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DILLARDS INC**  
Employer

**OC: 05-27-07 R: 04  
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 20, 2007, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on July 10, 2007. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

**ISSUE:**

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time beauty advisor for Dillard's Inc. from September 7, 2006 to May 23, 2007. She left her employment because of racist comments and actions by co-workers and management. The claimant was the first black woman to work at the beauty counter at that store. She worked with a woman named Susie Weber. Ms. Weber made comments and generalizations about the claimant including that she only got the job because she was black. She would also ask the claimant questions like, "Who is that black girl?" The claimant's nephew had committed suicide and Ms. Weber overheard the claimant talking to a customer she knew about the situation and later commented about kids not having fathers, assuming the claimant's nephew's father was not involved in his life when in fact he was and making a generalization about black families. Ms. Weber also refused to place the advertisements showing pictures of the black model for Este Lauder on the counter. In October 2006 the claimant told the manager, in front of Ms. Weber, that Ms. Weber had "an issue" with black people and Ms. Weber laughed and said, "Oh yeah. I'm just over here being politically incorrect." The manager said they would have to get the town of Walcott out of Ms. Weber and the claimant said Ms. Weber was 45 years old and Walcott should be out of her by now. As the claimant's sales increased, Ms. Weber told other employees to watch the claimant and said she did not work and that she was lazy. On Wednesdays, the counter manager participated in a conference call with other Este Lauder representatives. The counter manager was unable to take the call on one occasion

and asked the claimant to do it and Ms. Weber said the claimant was not qualified or smart enough to do it. On another day, Ms. Weber was cleaning and the claimant told her she could go and Ms. Weber said she was not comfortable with that because the claimant "was not the cleanest person in the world." She also told the claimant she needed to put up the schedule and the claimant again told her she needed to leave. The parties argued and both went to the store manager and as Ms. Weber was leaving she said, "Goodbye Negro." The claimant told the employer that if it did not do something about the situation, she would have someone else do something, meaning the Civil Rights Commission and/or an attorney. Ms. Weber said, "That's how you people get all your money. You sue people." The store manager did not do or say anything to Ms. Weber about her conduct but she was discharged in November 2006. In March 2007 the claimant's hours were reduced after she complained about not being given the counter manager position and she filed a complaint with the Civil Rights Commission. The new counter manager said someone was stealing from the store; and when the claimant was gone, products were placed in her bin to make it look as if she was taking items, so the claimant left the products in her bin and did not touch them. On April 1, 2007, the claimant told the store manager she was going to look for another job and was filing a lawsuit alleging harassment, retaliation and failure to promote. The following week, the employer received the claimant's lawsuit and placed a camera on the Este Lauder counter where the claimant worked. The claimant believed she had another job and left Dillard's May 23, 2007, without giving notice, but the other job fell through.

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

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

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.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant cited at least 13 incidents of racist actions, comments, harassment, and retaliation during the eight months she was employed at Dillard's. While the claimant did not go to management over every racist incident, the employer did have notice of the problems and chose not to take any steps to stop the ignorant actions of co-workers and management when it was notified of specific situations. The work environment was unlawful, intolerable, and detrimental to the claimant, and she has demonstrated that her leaving was for good cause attributable to the employer. Benefits are allowed.

**DECISION:**

The June 20, 2007, reference 01, decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw