

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

AMY L HUDSON
Claimant

APPEAL NO. 19R-UI-03110-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CONLIN PROPERTIES INC
Employer

OC: 02/17/19
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Conlin Properties (employer) appealed a representative's March 7, 2019 decision (reference 01) that concluded Amy Hudson (claimant) was eligible to receive unemployment insurance benefits. Administrative Law Judge Stephanie Callahan issued a decision on March 29, 2019, reversing the representative's decision. A decision of remand was issued by the Employment Appeal Board on April 12, 2019. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 3, 2019. The claimant participated personally. The employer provided a telephone number but could not be reached at the time of the hearing. Messages were left for the employer but the employer did not respond by the time the record closed at 8:45 a.m. on May 3, 2019. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 16, 2018, as a full-time assistant manager in a large apartment building. The apartment building was located in a high-crime area. When the employer hired the claimant, the employer was partnered with the Des Moines Police Department (DMPD) to deter crime. The claimant understood the employer agreed to maintain lighting, cameras, and other items in exchange for the DMPD driving through the property occasionally. The employer did not budget for the security measures and the partnership dissolved.

The employer advertised a computer lab as an amenity for residents. The computer lab was not operational at any time during the claimant's tenure. She was criticized by residents for its nonexistence. She requested assistance from the employer's corporate office but was told that money was not budgeted. In addition, at the end of her employment, the employer did not have any cleaning service for the property.

From December 20, 2018, to January 21, 2019, the claimant complained about racial emails that were sent to her or shown to her. The manager's supervisor worked to have the claimant's email address removed from the emails. They were still being sent to other employees or shown to the claimant. The manager's supervisor said she could not stop employees from showing her inappropriate emails.

On February 6, 2019, an employee, known to the claimant as having human immunodeficiency virus (HIV), entered the apartment of a resident. The resident knew the employee had HIV. The employee performed some work without wearing the proper protective gear and suffered a cut that caused a blood spill in the apartment. The resident called the claimant and threatened to sue and beat her up. The claimant reported the threat to the manager. The manager did not call law enforcement and the claimant was not allowed to call law enforcement. Everyone refused to clean the blood spill but the manager ordered the claimant to do it. The claimant was unaware of any employer policy on the correct procedure for cleaning human bodily fluids. The claimant found rubber gardening gloves to wear.

On February 7, 2019, the claimant went to a doctor and was tested for HIV. Her physician diagnosed her with high blood pressure and stress. She was restricted from working through February 13, 2019. On February 14, 2019, the claimant submitted her letter of resignation. She quit work due to an intolerable work environment.

The claimant filed for unemployment insurance benefits with an effective date of February 17, 2019. The employer participated personally at the fact finding interview on March 6, 2019, by Kathy DeWald.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(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 law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those

conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant quit work due to intolerable conditions. The claimant was physically threatened at work by a resident and the employer did nothing. The claimant was physically threatened at work when she was instructed to clean a biohazard and the employer provided no protection, except rubber gardening gloves. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided she meets all the qualifications.

DECISION:

The representative's March 7, 2019 decision (reference 01) is affirmed. The employer has not met its burden of proof to establish job related misconduct. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs