

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHERYLE E MC GINNIS
Claimant

APPEAL NO: 11A-UI-06448-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORDSTROM INC
Employer

**OC: 04/03/11
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's May 3, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing with her sister, Deborah Hughes. Michelle Hawkins, a TALX representative, represented the employer. Kaley Dolan testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in June 2006. She worked as a full-time quality auditor. The claimant transferred to the quality control department in 2007. After the claimant had been there awhile, she learned one employee talked behind her back and complained how the claimant's high numbers made other employees look bad. The claimant also heard that this employee reported the claimant implemented shortcuts to get her high numbers. One employee made these false comments about and snide comments to the claimant. The claimant's supervisor did not talk to the claimant about these comments and did not give her any warnings for not doing her work satisfactorily. By mid-2008, the stress created by an employee's comments or complaints led the claimant to talk to her supervisor. The claimant felt a long-time employee harassed her. In an attempt to resolve this situation, the claimant's supervisor moved the co-worker so the claimant did not sit next to her at work. Since the claimant's grandson stayed with her, the claimant did not want to work different hours because the hours she worked fit in the hours she needed to be at home with her grandson.

Even though the claimant did not work next to this employee, the employee continued making snide comments to the claimant and the claimant heard about the untruthful remarks the employee still made about her. The employee's comments upset the claimant to the point the claimant had problems sleeping at night and was very emotional when she talked to her sister

about the situation. At various times, the claimant was ready to leave and move to Alabama because of the stress created by one employee.

Finally in 2011, the claimant made the decision to move back to Alabama to get out of the stressful working environment and to be closer to her family and start her own business. The claimant gave the employer a two-week notice. When she resigned, she only indicated she was resigning because she was moving to Alabama. She did not tell anyone in the human resource department she resigned because of one employee's harassing behavior toward her.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant voluntarily quits employment when she leaves because of intolerable or detrimental working conditions. 871 IA 24.26(4). The law also presumes a claimant voluntarily quits without good cause when she leaves to move out of the area or to start her own business. 871 IAC 24.25((2), (19).

The claimant established the remarks one co-worker made to and about the claimant caused the claimant a great deal of stress. After the claimant talked to her supervisor about this employee, the supervisor took action by making sure the two women did not work next to one another. Even though the co-worker's remarks and comments still bothered the claimant a great deal, the claimant did not ask her supervisor to do anything else. The claimant did not report the co-worker's harassing conduct to anyone in the human resource department. Even though the claimant was stressed out, emotional about the problems she had with a co-worker and could not sleep, she did not seek medical treatment. Her physician did suggest that she quit working for the employer. Based on the evidence presented, the claimant did not satisfy 871 IAC 24.26(6)b.

Since the claimant has worked with the co-worker she had problems with since 2007 and she informed the employer she was quitting to move to relocate to be close to her family and start her own business, the evidence establishes she quit for compelling personal reasons. The claimant did not establish she quit for intolerable working conditions. As of April 3, 2011, the claimant is not qualified to receive benefits.

DECISION:

The representative's May 3, 2011 determination (reference 01) is affirmed. The claimant voluntarily quit her employment for compelling personal reasons that do not qualify her to

receive benefits. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account is not subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs