

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PAMILA C LASCALA**  
Claimant

**APPEAL NO. 13A-UI-00842-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE BON-TON DEPARTMENT STORES INC**  
Employer

**OC: 12/23/12**  
**Claimant: Appellant (2)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated January 18, 2013, reference 02, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on February 21, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Delvin Dawby. No one participated in the hearing on behalf of the employer.

**ISSUE:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant worked for the employer as a sales associate in the fragrance department from April 15, 1994, to December 28, 2012.

The claimant provided a two-week notice in mid-December that she was quitting effective December 28, 2012, because of the constant hostile treatment she received from an employee who was transferred to the fragrance department about a year earlier. The claimant had learned that the transfer was due to conflicts the employee had in another department. The claimant's supervisor told her that she should report any problems she had with the employees.

Problems started in November 2012, when the employee angrily and falsely accused the claimant of driving away a customer that the employee wanted to wait on. Later, a Ralph Lauren fragrance individual approached the claimant about being designated as the "Ralph Lauren ambassador," which was just a promotional strategy and garnered no more pay or commissions for the claimant. The employee apparently was jealous of the designation and badgered the claimant about how she got it and kept talking about it. She complained to her supervisor about the employee's hostile conduct, but the problems continued and included the employee yelling at her and confronting her unnecessarily.

In December 2012, the employee physically blocked the aisle as the claimant went to a cash register to check out a long-time customer. When the claimant struggled to get around the

employee, she brushed the employee who then claimed that the claimant had hit her. The employee then loudly asked a coworker who appeared to be posted to witness what had happened whether she had seen the claimant hit her. The long-term customer viewed what happened as the employee deliberately harassing the claimant.

After the employee complained to management that the claimant had assaulted her, the claimant met with her supervisor, the employee, and the coworker who supposed witnessed what happened to try to resolve things. The employee and the coworker created a scene by getting down on their knees and folding their hands as though they were praying and crying about how cruel the claimant was. The claimant ended up receiving a warning for hitting the employee.

The claimant had to continue to work alongside the employee, but ultimately, the claimant could not tolerate working under the hostile working conditions and submitted her resignation.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

An employee who leaves employment due to intolerable working conditions quits with good cause attributable to the employer. 871 IAC 24.26(4)

The evidence shows the claimant left work due to intolerable treatment by her coworker and the conduct is attributable to the employer because the claimant brought the coworker's treatment to the employer's attention but no effective action was taken to resolve the situation.

**DECISION:**

The unemployment insurance decision dated January 18, 2013, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css