

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FAY L AHL
Claimant

APPEAL NO. 11A-UI-03845-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BATH & BODY WORKS LLC
Employer

**OC: 02/06/11
Claimant: Respondent (1)**

Section 96.5(1) – Quit
Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Bath and Body Works, filed an appeal from a decision dated March 17, 2011, reference 01. The decision allowed benefits to the claimant, Fay Ahl. After due notice was issued, a hearing was held by telephone conference call on April 19, 2011. The claimant participated on her own behalf. The employer did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits or whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Fay Ahl was employed by Bath and Body Works from October 1999 until February 6, 2011. At the time of separation she was a full-time co-manager. On February 6, 2011, Manager Brandy Nedved asked the claimant to resign because she felt Ms. Ahl “didn’t have the passion” for the company. Although no threat of discharge was made Ms. Nedved did state tell the claimant if she did not agree to resign the employer would put her name in a nation-wide retail data base and she would “never work in the retail business again.” The claimant agreed to resign.

REASONING AND CONCLUSIONS OF LAW:

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(21) 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:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant did not voluntarily quit. The employer requested her resignation and although no actual threat of discharge was made, a threat of other negative consequences was. The administrative law judge considers this to be the equivalent of a threat of discharge and considers the resignation not to have been voluntary. The employer did not provide any evidence of misconduct and disqualification may not be imposed.

DECISION:

The representative's decision of March 17, 2011, reference 01, is affirmed. Fay Ahl is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css