

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERIC G LITLE
Claimant

APPEAL NO. 08A-UI-03583-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLIANCE DIVERSIFIED SERVICES LLC
Employer

OC: 03/09/08 R: 03
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 1, 2008, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 29, 2008. Claimant participated. Employer participated by Connie Pegump, Human Resource Manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 1, 2008. Claimant was called a nigger by a coworker on January 25, 2008. Employer was informed of the harassment. Employer gave the offending coworker a written reprimand but allowed him a full day of work. A short meeting was held with the workers warning that racial slurs would not be tolerated. Claimant was not given any reassurance that he would be guaranteed a harassment-free work environment. Claimant was then given the cold shoulder for the next week.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a racial slur. This is harassment. Claimant was not given a reasonable assurance that the racial discrimination and harassment would not happen again. Claimant and the offending individual were immediately returned to the same work environment. This is not an assurance of freedom from a harassment-free work environment. Benefits allowed.

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(3). (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:

(3) The claimant left due to unlawful working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

DECISION:

The decision of the representative dated April 1, 2008, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs