

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELINDA L WEHRLE**  
Claimant

**APPEAL NO. 08A-UI-00513-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**O'REILLY AUTOMOTIVE INC**  
Employer

**OC: 12-23-07 R: 02**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the January 14, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 30, 2008. The claimant did participate. The employer did participate through Fred Wadle, District Manager. Employer's Exhibit One was received.

**ISSUE:**

Did the claimant voluntarily quit her employment with good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a delivery driver full time beginning April 27, 2004 through December 21, 2007 when she voluntarily quit.

On December 21, 2007, the claimant was called into the office where she was interviewed in a loss prevention investigation by Fred Wadle and John Wallace. Unbeknownst to the claimant at the time, her manager Chuck Hood had reported to the corporate office that he believed the claimant to have stolen an Armor All gift pack. The claimant arrived at work on December 21 with no intention of quitting her job. During the interview with both Mr. Wadle and Mr. Wallace the claimant made allegations of sexual harassment by customers but refused to tell Mr. Wadle or Mr. Wallace any details as she did not want to make a complaint about any of her coworkers. As Mr. Wallace continued to question the claimant she became more uncomfortable and believed she was being accused of wrongdoing and that the employer wanted her to quit. No one on behalf of the employer told or asked the claimant to quit. Before the investigation had concluded the claimant told Mr. Wadle that she no longer wanted to participate in the interview, left the interview and told Mr. Hood, her manager, that she was resigning her employment. She left the store. The claimant could have continued working if she so chose.

Prior to quitting the claimant never voiced any concerns to upper management, including Mr. Wadle, that she was being sexually harassed by customers of the store or that she was

being required to perform job functions that were not her responsibility or that she was being required to work hours for which she was not paid.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

The claimant arrived at work with no intention of quitting her employment that day. While she made complaints at hearing of harassment, the claimant did not ever report to upper management her complaints until after she quit her employment when she was being investigated for theft. The claimant complained about sexual harassment to Mr. Wadle and to Mr. Wallace during her interview regarding the theft, but refused to “turn in any of her coworkers.” The claimant did complain to Mr. Hood about a customer who touched her breast on two occasions and when she requested that she not be sent out to that customer’s location her request was granted. The incidents happened in the summer prior to her quitting. The claimant continued to work after the incident with the customer.

An employee owes their employer cooperation in determining if theft has occurred. When a complaint was made to the corporate office by the manager of the store, the employer was within their rights to question the claimant. The claimant may not have wanted to be questioned, but mere questioning after an allegation of theft does not create a hostile or intolerable work environment. Additionally, the administrative law judge cannot conclude that the claimant quit her employment due sexual harassment. The claimant had the opportunity to report behavior but chose not to until she had been investigated for theft, and even then she refused to “turn in any of her coworkers.” If the claimant was quitting because of her intolerable work environment, then she certainly would have reported the offense earlier.

The administrative law judge is persuaded that while the claimant was not happy with some aspects of her work environment, she did not quit because of those factors, but quit when the employer questioned her about her involvement in theft from the store. It is reasonable for an employer to question an employee accused of theft. The claimant is now raising allegations of an intolerable work environment in an effort to secure unemployment insurance benefits. The claimant’s decision to quit because she was questioned about theft was not a good cause reason attributable to the employer for leaving the employment. Benefits are denied.

### **DECISION:**

The January 14, 2008, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such

time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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