

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DIANA K UNSEN**  
Claimant

**APPEAL NO: 06A-UI-10983-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STEVES ACE HARDWARE INC**  
Employer

**OC: 09-03-06 R: 04**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the November 8, 2006, reference 03, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on November 30, 2006. Claimant participated. Employer participated through Judy Selchert and Steve Selchert.

**ISSUE:**

The issue is whether claimant quit the employment without good cause attributable to the employer.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a part-time office assistant from July 2001 until October 16, 2006 when she quit. She was upset that coworkers did not include her in their conversations and on October 13 claimant participated in a meeting with Judy and Steve Selchert to address her concerns. After 15 to 20 minutes, Steve Selchert stood up and said he had “wasted enough time on this. Judy and I will run the store as we see fit and I don’t give a fuck if you don’t like it and if you don’t, get the hell out.”

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with 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.

871 IAC 24.26(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:

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

871 IAC 24.25(6) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(6) The claimant left as a result of an inability to work with other employees.

871 IAC 24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445 (Iowa 1993). Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

"The use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct, even in the case of isolated incidents or situations in which the target of abusive name-calling is not present when the vulgar statements are initially made." *Myers v. EAB*, 462 N.W.2d 734 (Iowa App. 1990).

Just as an employer is entitled to expect the use of civil language from employees, an employee may expect civil treatment from their employer. While coworkers' failure to include claimant in their conversations was not a good cause reason attributable to the employer for leaving,

employer's abusive language during the meeting was sufficient to grant claimant a good-cause reason attributable to the employer for leaving her employment. Benefits are allowed.

**DECISION:**

The November 8, 2006, reference 03, decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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