

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA L DOSER
Claimant

APPEAL NO. 10A-UI-08916-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

205 CORPORATION
Employer

**OC: 05/09/10
Employer: Respondent (5)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(4) – Intolerable/Detrimental Working Conditions

STATEMENT OF THE CASE:

The employer appealed a department decision dated June 16, 2010, reference 01, that held the claimant was not discharged for misconduct on February 20, 2010, and benefits are allowed. A telephone hearing was held on August 9, 2010. The claimant participated. The employer did not participate.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time server/bartender from May 18, 2009 to February 20, 2010. The claimant complained to management that she believed she was being sexually harassed by her manager due to comments about her appearance and dress. On February 20, a new manager approached the claimant and told her that during a management meeting the other manager made comments about viewing claimant's pictures on her cell phone that he has seized at the work place. The pictures were intended for claimant's boyfriend, and showed her in varying states of undress.

The claimant left work and she called management officials about her decision to quit employment, and the reason(s) she was doing so. Management responded it would get back to her about the situation, but it failed to do so.

The employer failed to respond to the hearing notice.

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(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.

The administrative law judge concludes the claimant voluntarily quit with good cause attributable to her employer due to intolerable and detrimental working conditions on February 20, 2010

A manager violated the claimant's right to privacy by accessing the contents of her personal cell phone and viewing photographs that were intended to be personal. The manager shared his claimant photo observations with other managers. This occurrence, in light of previous issues with the same manager making sexually offensive comments, constitutes detrimental working conditions and a good cause for claimant quitting employment.

DECISION:

The department decision dated June 16, 2010, reference 01, is modified. The claimant voluntarily quit with good cause attributable to her employer on February 20, 2010. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw