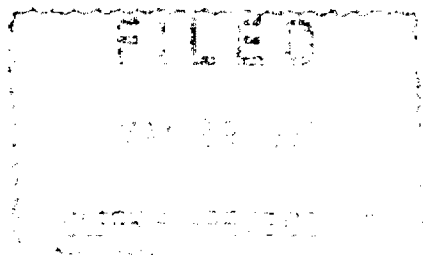
IN THE COURT OF APPEALS OF IOWA

No. 7-574 / 96-1759
Filed May 29, 1998

TAMMY L. MILLER,
Appellant,

vs.

EMPLOYMENT APPEAL BOARD and WOODHARBOR MOLDING & MILLWORKS, INC.,
Appellees.



Appeal from the Iowa District Court for Polk County, Robert J. Blink, Judge.

Petitioner appeals from the district court's ruling affirming the respondent Board's decision denying her request for unemployment benefits. **AFFIRMED.**

Thomas J. Duff of Roxanne Conlin & Associates, P.C., Des Moines, for appellant.

Anita Garrison, Des Moines, for appellee Board.

Michael Byrne of Winston & Byrne, P.C., Mason City, for appellee employer.

Considered by Cady, C.J., and Huitink and Vogel, JJ. Sackett, J., takes no part.

HUITINK, J.

Tammy Miller appeals the district court's ruling affirming the Employment Appeal Board's decision denying her request for unemployment benefits. We affirm.

I. Background Facts and Proceedings.

Tammy Miller was employed by Woodharbor Molding and Millworks, Inc. (Woodharbor) from March 28, 1994, through April 3, 1995. Miller's stated reasons for quitting were sexual harassment by a male employee and an illegal denial of her expected promotion to "lead worker." Miller sought and received unemployment benefits based on an initial Job Service determination she "voluntarily quit her employment for good cause attributable to her employer."

Woodharbor appealed this decision to an Administrative Law Judge (ALJ). The ALJ rejected Miller's good cause arguments and reversed the initial award of benefits. On Miller's subsequent appeal to the Employment Appeal Board (Board), the Board declined to address Miller's sexual harassment claims. The Board affirmed the ALJ decision citing Miller's unfulfilled expectations of a promotion as her motive for quitting. The Board also rejected Miller's claims of intolerable and detrimental working conditions or change in her contract for hire because she failed to timely notify Woodharbor of the unacceptable working conditions. *See Cobb v. Employment Appeal Board.*, 506 N.W.2d 445, 447-48 (Iowa 1993).

On judicial review, the district court determined Miller did not need to prove she experienced sexual harassment to establish good cause for quitting. The proper

standard, according to the district court, is whether Miller had a reasonable belief she had been sexually harassed. *See O'Brien v. Employment Appeal Board*, 494 N.W.2d 660, 662 (Iowa 1993). Because neither the ALJ or the Board applied this standard in evaluating Miller's claims, the district court remanded Miller's case back to the Board for application of this standard.

Additionally, the district court rejected Miller's claim that she complied with applicable notice requirements concerning her expected promotion to lead worker. Although Miller failed to raise the issue of notice to Woodharbor concerning sexual harassment, the district court determined the ALJ's finding Miller failed to notify Woodharbor of this circumstance was supported by substantial evidence.

On remand, the Board found:

> A reasonable person could not believe that sexual harassment which may have occurred in November of 1994, could constitute good cause to quit five months later, particularly when the event which triggered the claimant's leaving the plant in March was her failure to receive a promotion at that time. Nor is the act of not being promoted by one's employer an illegal act for which Ms. Miller could reasonably believe was good cause to quit. Thus, the Board conclude the claimant did not have a reasonable basis on which to base her voluntary quit . . . . Consequently, her quit was without good cause, and benefits are disallowed.

The Board affirmed the ALJ's decision finding Miller quit her employment without cause attributable to her employer, and denied Miller's claim for benefits.

The district court on judicial review of the Board's decision following remand found substantial evidence supporting their decision and affirmed.

Miller appeals. She argues the district court erroneously determined substantial evidence supported the Board's decision. Miller also claims the record discloses that the detrimental and intolerable working conditions existing at Woodharbor provided her with good cause for quitting her employment.

II. Standard of Review.

Appellate review of an agency's decision is governed by Iowa Code section 17A.20 (1993). Review is at law, not de novo. *Diggs v. Employment Appeal Bd.*, 478 N.W.2d 432, 433 (Iowa App. 1991). The agency's decision is final if supported by substantial evidence in the record and correct conclusions of law. *Id.* Evidence is substantial if reasonable minds, viewing the record as a whole, would accept the record as adequate to reach the conclusion found. *Id.*

III. The Merits.

An employee who leaves work voluntarily without good cause attributable to the employer is disqualified from receiving unemployment compensation benefits. Iowa Code § 96.5(1). In determining whether an employee left work voluntarily with good cause, the court must apply the reasonable belief standard. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660, 662 (Iowa 1993). "[I]t is not necessary to prove the employer violated the law, only that it was reasonable for the employee to believe so." *Id.*

The Board, in denying Miller's unemployment benefits, found a reasonable person in Miller's situation would not believe her failure to receive a promotion in

March 1995 was gender based and constituted good cause for quitting. We are bound by this determination if it is supported by substantial evidence, even if the evidence would support a different finding. *Brockway v. Employment Appeal Board*, 469 N.W.2d 256, 258 (Iowa App. 1991).

We, like the district court, find substantial evidence supporting the Board's decision to deny Miller unemployment benefits. Even if Miller's factual version of her sexual harassment claim is accepted as true, sexual harassment was not Miller's reason for quitting. She quit because she was denied the lead worker position and, by her own admission, would not have quit had she received the desired promotion.

Moreover, there is nothing in the record supporting a reasonable belief that Miller's failed promotion was attended by some illegality. There is evidence Woodharbor questioned the need for a lead worker and also determined Miller's personality was incompatible with the requirements of that position.

The judgment of the district court is accordingly affirmed. The fact that the record may support another conclusion does not justify reversal of the Board's decision. *Id.*

AFFIRMED.