

REFEREE'S DECISION

Colorado Department of Labor and Employment
Division of Employment and Training
U.I. Appeals Section, P.O. Box 8988
Denver, Colorado 80201 (303) 866-6260

Social Security: [REDACTED]
Docket Number: 19208-96
BYB Date: 7-7-96
Dep Decision: 8-16-96
Date Of Appeal: 8-20-96
Appellant: CLAIMANT
Code: A-1

DATE MAILED: SEP 19 1996

MARK K HOBRATSKY
PO BOX 453
ALEXANDRIA VA 22313

COCHLEAR CORP
61 INVERNESS DR
ENGLEWOOD CO 80112

APPEARANCES: Mark Hobratsky, the claimant, appeared. Peter Edwards, Attorney, represented the employer. Michael Wallace, Vice President of Finance, testified on behalf of the employer at a hearing held September 17, 1996 in Denver, Colorado.

FINDINGS OF FACT AND CONCLUSIONS: The claimant appeals a determination of the deputy that found pursuant to Colorado Employment Security Act Section 8-73-108 (5)(e)(V) the claimant quit this employment to accept other employment. The claimant was determined responsible for the separation. The referee reverses the deputy's decision.

The claimant worked for this employer from August 1, 1994 through [REDACTED] 1996 as a full-time supervisor earning [REDACTED] per month. Ron West, President, supervised the claimant.

The claimant resigned because of continual harassment by a coworker. The claimant and the coworker had been in a relationship. The claimant broke the relationship off with the coworker and then she began to sexually harass the claimant from July 11, 1995 to December of 1995. When the claimant brought forth the charges of harassment to the employer the coworker brought forth that the claimant was the one harassing her. During the time of the harassment the coworker was [REDACTED] and threatening his job. The employer held a hearing on December 18, 1995 and that is when the coworker made allegations against the claimant. [REDACTED]

[REDACTED] The claimant denied ever harassing the coworker. The coworker was told to [REDACTED]. [REDACTED] The claimant felt the employer was acting in an unfair manner. On December 18, 1995 the claimant filed a grievance to the hearing. On December 19, 1995 another meeting was held and the employer decided no disciplinary action would be taken against the claimant. On December 22, 1995 the claimant believed the matter was resolved. [REDACTED]

[REDACTED] against him. On January 8, 1996 the claimant was threatened with dismissal because he brought forth charges that the coworker talked about the investigation and the situation. In [REDACTED] of 1996 it became evident to the claimant that the employer was trying to find a reason to fire him and that he would never succeed with the company because of this harassment case. The claimant was also subjected to hostile remarks by coworkers because of the ex-girlfriend discussing the situation with coworkers. The claimant secured other employment and decided to resign due to the continual harassment.

The referee concludes the claimant resigned due to unsatisfactory working conditions. The claimant was subjected to continual harassment by this coworker that was his ex-girlfriend. The claimant substantiated that the harassment indeed existed and that he was not being treated fairly by the employer. The claimant sought other employment after he had no other options within the company. Based upon the testimony provided at the hearing the claimant cannot be held at fault.

DECISION: It is determined that the claimant is not responsible for the separation from this employment. A full award of benefits is granted under §8-73-108 (4) (c) C.R.S.

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