

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**ELMER F VONDRAK
30345 GRANITE AVE
HINTON IA 51024-9083**

**KOHN ENTERPRISES INC
INDIAN HILLS TRUE VALUE
2001 RIVERSIDE BLVD
SIOUX CITY IA 51107**

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SIOUX CITY IA 51102**

**Appeal Number: 06A-UI-01994-AT
OC: 01-22-06 R: 01
Claimant: Appellant (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Elmer F. Vondrak filed a timely appeal from an unemployment insurance decision dated February 14, 2006, reference 02, which disqualified him for benefits. After due notice was issued, a telephone hearing was held March 6, 2006, with Mr. Vondrak participating. Vice President Andy Kohn and Accountant Ted Ball participated for the employer, Kohn Enterprises, Inc. This case is heard on a consolidated record with appeals 06A-UI-01876-AT, 06A-UI-01873-AT, 06A-UI-01874-AT, 06A-UI-01875-AT, and 06A-UI-02030-AT.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Elmer F. Vondrak was employed as the manager of Indian Hills True Value, owned by Kohn Enterprises, Inc., from May 1, 2004 until he resigned January 24, 2006. Mr. Vondrak was the former owner of the business, having sold it to Kohn Enterprises in 2004. On January 23, 2006, Mr. Vondrak and several other employees attended a meeting called by Vice President Andy Kohn. The meeting lasted for approximately two hours and was marked by repeated profanity from Accountant Ted Ball, brought to the meeting by Mr. Kohn. In the meeting Mr. Kohn announced far-reaching changes in the conduct of the business. Management functions previously handled by Mr. Vondrak were to be removed. Mr. Vondrak was given a specific warning that he would be discharged if he continued to perform any functions which were not strictly managerial. Mr. Vondrak was in the habit of assisting customers he had known from his days as the owner of the business. At the end of the meeting Mr. Vondrak and the other employees were given two minutes to decide if they wished to remain with the company. Although Mr. Vondrak did not resign immediately, he turned in his keys on the following day.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does.

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.

An individual may receive unemployment insurance benefits if the individual resigns because of a substantial change in the conditions of employment. See 871 IAC 24.26 (1). The individual may also receive benefits if the individual resigns because of intolerable or detrimental working conditions. See 871 IAC 24.26 (4).

The administrative law judge concludes from the evidence that the changes announced by Mr. Kohn constituted a substantial change in the conditions of employment for Mr. Vondrak. Whether or not the employer had a legitimate business reason for making the changes is immaterial. In the case Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988), the Supreme Court of Iowa ruled that the administrative law judge can consider only the impact of changes on the employee, not the employer's rationale for making the changes.

The administrative law judge also concludes from the evidence that the hostile nature of the meeting, in particular Mr. Ball's comments, created intolerable and detrimental working conditions. This, too, gave the claimant good cause attributable to the employer to resign.

DECISION:

The unemployment insurance decision dated February 14, 2006, reference 02, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

kkf/tjc