

**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**

**BARRY L SHIPLEY  
27380 – 150<sup>TH</sup> AVE  
LONG GROVE IA 52756**

**ACO YP INC  
YANKEE PLASTIC  
12080 RAVENNA RD  
PO BOX 245  
CHARDON OH 44024**

**Appeal Number: 05A-UI-06314-H2T  
OC: 05-15-05 R: 04  
Claimant: Appellant (1)**

**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 Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 2, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 5, 2005. The claimant did participate. The employer did participate through (representative) Chris Livingston, Production Supervisor, and George Potter, President.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a fabricator full time beginning November 30, 2004, through May 11, 2005, when he voluntarily quit. The claimant walked off the job early on May 11, 2005, without permission because he was upset with how small his pay raise was. Chris Livingston did not

give the permission to leave early. The claimant mentioned to other employees that he was unhappy with his performance evaluation and his pay raise. Later that afternoon the claimant called George Potter and asked him what he had to do to turn in a two-week notice. Mr. Potter told him that he did not need to turn in a two-week notice if he intended to quit, he could just quit. The claimant did not return to work.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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 24.25(13) 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 section 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 section 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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2 (amended 1998). The claimant was unhappy with the pay raise he was given at his performance evaluation and decided to quit. He walked out of the plant without getting permission from a supervisor. The claimant was not guaranteed any particular wage.

The claimant then called Mr. Potter and asked him how to proceed with a two-week notice. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's walking out without permission, in conjunction with his call to Mr. Potter to inquire about a two-week notice, convinces the administrative law judge that the claimant intended to quit; he was not discharged. The claimant's leaving because he was unhappy with the amount of his pay raise and with his performance evaluation is not good cause attributable to the employer. Benefits are denied.

DECISION:

The June 2, 2005, reference 01, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

tkh/kjw