

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MIKE S ISENHOWER
Claimant

APPEAL NO. 12A-UI-10212-VST

MENARD INC
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/29/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated August 17, 2012, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 19, 2012. The claimant participated personally. The employer participated by Travis Spiker, first assistant general manager. The employer was represented by Paul Hammell, attorney at law. The record consists of the testimony of Mike Isenhower and the testimony of Travis Spiker. Exhibit One was received into evidence as the claimant had been sent the exhibit by overnight mail and by regular mail but not received by the claimant. It is a business record. The exhibit was not considered necessary evidence in this case and the decision is based on sworn testimony.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer worked for the Menard's store in Marshalltown, Iowa. He was hired on February 22, 1993. He was a full-time manager of the electrical department. The employer was moving the location of the store and the claimant had a lot of work and stress associated with opening the new store location. He did not discuss any of this with management. On April 11, 2012, the claimant went home and had what he considered to be a "nervous breakdown." He never returned to work. He was not advised to quit his job by any health care provider. He never contacted the employer personally after April 11, 2012.

REASONING AND CONCLUSIONS OF LAW:

Under some circumstances, an individual may receive unemployment insurance benefits if the individual has resigned because of a medical condition caused or aggravated by working conditions. Before benefits may be awarded, the record must establish that the individual

resigned upon the advice of his physician. The evidence here does not establish that the claimant resigned in April 2012 upon the specific advice of his doctor. Further, the evidence must establish that, before resigning, the individual told the employer of the medical condition and put the employer on notice that he would resign if the employer did not provide an adequate accommodation. The individual must then give the employer a reasonable amount of time to make the accommodation. See Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993). Nothing in this record indicates such a dialog between the claimant and anyone from the employer in the weeks preceding April 11, 2012. Under these circumstances, the claimant is not eligible for benefits.

DECISION:

The decision of the representative dated August 17, 2012, reference 01, is affirmed. Unemployment benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs