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

Appeal Number: 06A-UI-02672-DT
OC: 02/05/06   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***.

RICKY BUTLER
PO BOX 534
DAVENPORT IA 52805-0534

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.

INTERSTATE BRANDS CORP
C/O TALX EMPLOYER SERVICES
PO BOX 283
ST LOUIS MO 63166-0283

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:

Ricky Butler (claimant) appealed a representative's February 28, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Interstate Brands Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 27, 2006. The claimant participated in the hearing. Kelly Green appeared on the employer's behalf and presented testimony from one other witness, Steve Bartholomew. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on July 20, 1996. He worked full time as an oven operator on the first shift. He worked at the employer's Davenport, Iowa plant through November 4, 2005 when that facility closed. He accepted a transfer to the employer's Waterloo, Iowa plant effective November 8, 2005. He was operating under the understanding that he could try out the position until the first of the year and that he could then come back to Davenport if things did not work out. He believed he would then have the option to take the business closing unemployment insurance benefits to which he would have been entitled had he not agreed to transfer to the Waterloo facility.

The claimant's last day of work at the Waterloo facility was December 24, 2005. He had previously given a written notice that December 30, 2005 would be his last day of work there because his family had been unable to move from Davenport to Waterloo and he did not wish to continue driving back and forth on the weekends. On or about December 26 the claimant had car problems getting back to Waterloo from Davenport; his supervisor in Waterloo told him he could go back to Davenport and not work through December 30.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer. Unemployment insurance benefits are intended to assist "persons unemployed through no fault of their own." Iowa Code §96.2. The primary reason the claimant is currently unemployed is because of the ending of his employment at the Waterloo, Iowa facility.

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 provides that, 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 claimant did express his intent not to continue to work with the employer at the Waterloo, Iowa facility. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code §96.6-2. A person who quits employment without good cause attributable to the employer must be disqualified from further benefits even if that person has given up unemployment insurance benefits to accept the work which was then considered unsuitable. Taylor v. Iowa Department of Job Service, 362 N.W.2d 534 (Iowa 1985). Quitting in order to live in another locality than the locality in which work had been accepted and to avoid

the commuting distance is not good cause. 871 IAC 24.25(2), (30). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's February 28, 2006 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of December 30, 2005, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

ld/pjs