

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERRY M MADEN**  
Claimant

**APPEAL NO: 08A-UI-07226-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MRS CLARK'S FOODS LC**  
Employer

**OC: 06/15/08 R: 02  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Terry M. Maden (claimant) appealed a representative's July 30, 2008 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Mrs. Clark's Foods, L.C. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 25, 2008. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, 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:**

After a prior period of employment with the employer through a temporary employment firm, the claimant started working directly for the employer on December 7, 2007. He worked full time as a forklift operator on the 2:00 p.m. to 10:00 p.m. shift. His last day of work was May 16, 2008.

At approximately 9:45 p.m. on May 16 another employee who worked on the line was asking the claimant to assist with something and the claimant was not responding as the other employee wished. The other employee came over to the claimant to within a few feet of him, yelling at him. The claimant then turned and walked away to avoid further conflict, and the other employee returned to his work area. The claimant finished up his work and left; he did not report the incident to anyone with the employer. The next morning he called and left a message for the warehouse manager saying that he was quitting because he did not want to have further confrontations with this other employee. There had been no prior issue between the claimant and the other employee, and the claimant did not seek some other resolution that would have allowed him to continue his employment.

## REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer 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. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or difficulty working with another employee is not good cause. 871 IAC 24.25(6), (21). While the claimant's work situation was perhaps not ideal, he has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). Further, while a claimant does not have to specifically indicate or announce an intention to quit if his concerns are not addressed by the employer, for a reason for a quit to be "attributable to the employer," a claimant faced with working conditions that he considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address his concerns. Hy-Vee Inc. v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2005); Swanson v. Employment Appeal Board, 554 N.W.2d 294 (Iowa 1996); Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem it then has made the cause for quitting "attributable to the employer." Under this logic, if in the alternative the claimant demonstrates that the employer was independently aware of a condition that is clearly intolerable, unlawful, or unsafe, there would be no need for a separate showing of notice by the claimant to the employer; if the employer was already aware of an obvious problem, it already had the opportunity to address or resolve the situation. Here there had not been a problem which was or should have been apparent to the employer and the claimant did not provide the employer with a notice and opportunity to remedy the problem. The claimant has not satisfied his burden. Benefits are denied.

**DECISION:**

The representative's July 30, 2008 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of May 16, 2008, 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.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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