

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN W SOMMERFELT
Claimant

APPEAL NO. 06A-UI-09802-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENEFEE DRYWALL CO INC
Employer

**OC: 03-26-06 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 29, 2006, reference 01, fact-finder's decision that held the claimant was not qualified to receive unemployment insurance benefits because he quit his job to move to a different locality. After hearing notices were mailed to the parties, a telephone conference hearing was conducted from Des Moines, Iowa, on October 19, 2006. The claimant participated and testified on his own behalf. Appearing as a witness for the employer was Cindy Weaver, Administrative Assistant.

ISSUE:

Did the claimant voluntarily quit employment for reasons that qualify him to receive unemployment insurance benefits or did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds the following facts: Mr. Sommerfelt was employed by Menefee Drywall Co. Inc. as a carpenter from July 24, 2006 until September 5, 2006 when he voluntarily left employment to relocate to a different geographic area. Mr. Sommerfelt was employed on a full time basis and was paid by the hour. His last day on the job was August 24, 2006.

On August 25, 2006, the claimant told his immediate supervisor that he was going to Kentucky to look at land. On August 28, the claimant called indicating that he was having vehicle problems and could not return to work that day. The employer kept the claimant's job open in expectation that the claimant would be returning to work the following week. On Tuesday, September 5, 2006, the claimant reported to the company offices and indicated at that time that he was quitting his job to move to Kentucky where he had purchased a farm. Work continued to be available to the claimant at the time of his leaving.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that the claimant voluntarily left the employment for personal reasons that were not attributable to the employment under disqualifying conditions. It does.

871 IAC 24.25(2) 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:

(2) The claimant moved to a different locality.

In this case the hearing record establishes that Mr. Sommerfelt's reason for leaving his employment with Menefee Drywall Co. Inc. was to relocate to a different geographic area where he had purchased property. Work continued to be available to Mr. Sommerfelt in his normal capacity at Menefee Drywall Co. Inc. at the time that the claimant chose to leave. The claimant's reasons for leaving were solely personal in nature and were not attributable to any factors related to his employment with Menefee Drywall Co. Inc.

While Mr. Sommerfelt's reasons for leaving his employment were undoubtedly good from his personal viewpoint, they were neither necessary or compelling and did not arise out of his employment relationship with Menefee Drywall Co. Inc. The claimant's separation is disqualifying under the provisions of the Iowa Employment Security Law.

DECISION:

The agency representative's September 29, 2006, reference 01, decision is affirmed. The claimant voluntarily left employment under disqualifying conditions and is not qualified to receive unemployment insurance benefits until he has worked in and has been paid wages for insured work equal to ten times his individual weekly benefit amount, provided that he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/kjw