

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARTY L GRIFFIN**  
Claimant

**APPEAL NO. 06A-UI-11784-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BORGHI USA INC**  
Employer

**OC: 11/12/06 R: 04**  
**Claimant: Appellant (1)**

Section 96.5(1)a – Quit/Other Employment

**STATEMENT OF THE CASE:**

The claimant, Marty Griffin, filed an appeal from a decision dated December 4, 2006, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 21, 2006. The claimant participated on his own behalf. The employer, Borghi USA, Inc. (Borghi), participated by Plant Superintendent Ken Plummer.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Marty Griffin was employed by Borghi from August 12 until September 22, 2006. He was a full-time welder. The claimant gave a verbal resignation to Plant Superintendent Ken Plummer. The claimant had applied for a job with Lenox Corporation in Atlanta, Georgia, to drive trucks overseas. He had been given information on his departure date to the assignment, but the job was not finalized because the potential employer discovered he had a misdemeanor on his record and could not be hired.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the

employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.25(3) 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:

(3) The claimant left to seek other employment but did not secure employment.

The record establishes the claimant left employment with Borghi because he believed he had a job with another company. However, that employment never materialized because Mr. Griffin could not be hired, due to a misdemeanor. He did not requalify by working for the new employer and is disqualified under the provisions of the above code sections.

**DECISION:**

The representative's decision of December 4, 2006, reference 01, is affirmed. Marty Griffin is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

---

Bonny G. Hendricksmeier  
Administrative Law Judge

---

Decision Dated and Mailed

bgh/kjw