

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

WALTER B ZOOK
3920 VERN ACRES DR
CENTER POINT IA 52213

STRICTLY PLUMBING
3535 INDUSTRIAL AVE
MARION IA 52302-3859

Appeal Number: 04A-UI-02822-CT
OC: 02/08/04 R: 03
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.**

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.

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 Quit

STATEMENT OF THE CASE:

Walter Zook filed an appeal from a representative's decision dated March 3, 2004, reference 01, which denied benefits based on his separation from Strictly Plumbing. After due notice was issued, a hearing was held by telephone on April 5, 2004. Mr. Zook participated personally. The employer participated by Jeanne Hutson, Owner.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Zook began working for Strictly Plumbing in May 2002. He was told he would be paid from \$12.00 to \$15.00 per hour. He found out after he began the employment that he would only be earning \$8.00 per hour. He was told that he was being paid

the lower wage because of his lack of experience. He continued in the employment in spite of the fact that he was not being paid the wage he believed had been promised. In January 2003, his wages were increased to \$10.00 per hour. Mr. Zook quit in March of 2003 because of the low wages but sought a return to the job a few days later. He was allowed to return.

Mr. Zook was not promised any increase in wages when he returned to the job in March. He was never promised any raise that was not given. He was still dissatisfied with his wages in August and, therefore, quit. He also quit because he felt one of the owners was overly critical. He felt that Thomas Hutson created a hostile work environment by criticizing employees for not making sales and by threatening to fire employees. Mr. Zook also felt the employer was sending him on jobs in violation of the law because he was only an apprentice and was required to have a journeyman with him. On the day he quit, Mr. Zook noted that he was on call for two consecutive weeks. He was told to discuss the matter with the scheduler but he chose to quit instead. Mr. Zook never advised the employer he was considering quitting because of Mr. Hutson's conduct or because of any improprieties in the assignment of work. Continued work would have been available if he had not quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Zook was separated from employment for any disqualifying reason. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1). Mr. Zook had the burden of proving that his quit was for good cause attributable to the employer. Iowa Code Section 96.6(2). He quit, in part, because he was dissatisfied with his wages. He accepted and worked in the employment in spite of the fact that he was not paid the wage he felt he had been promised at the time of hire. He returned to the employment in March after having quit in spite of the fact that the employer did not promise him any raise. Inasmuch as the employer never failed to give Mr. Zook any promised raises, his quit because of the wages was not for cause attributable to the employer.

Mr. Hutson may well have been overly critical of the employees. However, the administrative law judge is not satisfied that his criticisms were belittling or abusive. At any rate, Mr. Zook never put the employer on notice that he objected to his behavior and would quit if it continued. He likewise never approached the employer with his concern as to whether he could legally perform work by himself. Mr. Zook's decision to quit was prompted by the fact that he was on call for two consecutive weeks. He was told to discuss the matter with the individual who made the schedule but he did not do so. The administrative law judge concludes that Mr. Zook did not give the employer a fair and reasonable opportunity to address Mr. Hutson's conduct, the legality of Mr. Zook's work, or the matter regarding on call scheduling. Because the employer was not given an opportunity to resolve the problems, Mr. Zook's quit was without good cause attributable to the employer. See Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). For the reason stated herein, benefits are denied.

DECISION:

The representative's decision dated March 3, 2004, reference 01, is hereby affirmed. Mr. Zook voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/b