

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

RANDY L NIBAUR  
117 W PAUL ST  
IONIA IA 50645 9457

CHAUTAUQUA GUEST HOME  
302 – 9<sup>TH</sup> ST  
CHARLES CITY IA 50616

Appeal Number: 06A-UI-01059-DWT  
OC: 01/08/06 R: 02  
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, 4<sup>th</sup> 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:

Randy L. Nibaur (claimant) appealed a representative's January 26, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Chautauqua Guest Home (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 20, 2006. The claimant participated in the hearing. David Ayers, the administrator, and Mark Davidson, the claimant's supervisor, appeared on the employer's behalf. During the hearing, Claimant's Exhibit A was offered and admitted as evidence. 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 his employment for reasons that do not qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in February 2002. The claimant worked as a full-time maintenance employee.

During his employment, the employer gave the claimant written warnings for various work-related problems in April 2003, February 2004 and on June 15, 2005. The claimant received one evaluation during his employment.

On December 6, 2005, the employer gave the claimant a written warning for unsatisfactory work performance. The issues the employer raised had been previously discussed. The claimant believed these issues or problems had been resolved earlier or were issues he had asked the employer to previously address and did not. The claimant was upset about receiving the December 6 warning. The claimant became even more upset when the employer told him his children did not need him at home in the morning to make sure they got on the school bus all right.

The claimant decided the employer was not treating him fairly. While the claimant was still upset about the warning and the employer's comments, he decided to quit. The claimant gave the employer his resignation on December 7. The claimant's resignation was effective as of January 6, 2006.

After the claimant had an opportunity to think about his employment, he asked the employer on December 16 if he could rescind his resignation. The employer did not allow the claimant to do this. The claimant's last day of work was January 6, 2006.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The claimant voluntarily quit his employment on December 7 when he submitted his one-month resignation notice. When a claimant quits, he has the burden to establish he quit with good cause. Iowa Code §96.6-2.

The law presumes a claimant voluntarily quits without good cause when he quits after receiving a reprimand. 871 IAC 24.25(28). On December 6 the employer gave the claimant a written warning for several issues. The claimant did not believe the employer treated him fairly by giving him the written warning and resigned on December 7 as a result of being reprimanded on December 6. After the claimant had an opportunity to calm down and think about his employment, he decided he did not want to quit working for the employer. On December 16, the claimant asked to rescind his resignation but the employer did not accept the claimant's rescission. Once an employer has accepted an employee's resignation, the employer can either grant or deny a claimant's attempt to rescind the resignation.

The claimant submitted his resignation notice for compelling personal reasons while he was emotionally upset about the December 6, 2005 warning. The fact the claimant reconsidered and tried to rescind his resignation indicates the claimant did not want to quit after he had an opportunity to reflect and think about his options when he was not emotional. The claimant quit for reasons that do not qualify him to receive unemployment insurance benefits. As of January 8, 2006, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's January 26, 2006 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of January 8, 2006. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/s