

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RYAN A SCHULTS
Claimant

APPEAL NO. 11A-UI-10164-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRO INC
Employer

OC: 07/03/11
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Centro, Inc. filed a timely appeal from a representative's decision dated July 28, 2011, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on August 25, 2011. Claimant participated personally. The employer participated by Ms. Tracy Lennon, Human Resource Assistant, and Mr. Mike Steffens, Supervisor. Employer's Exhibits One, Two and Three were received into evidence.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Ryan Schults was employed by Centro, Inc. from March 21, 2011 until July 1, 2011 when he voluntarily left employment. Mr. Schults worked as a full-time product finisher/inspector and was paid by the hour. The claimant was assigned to work on the company's third shift.

Mr. Schults left his employment with Centro, Inc. because he felt the company was not providing him with sufficient time away from his production duties to take reasonable break periods during his 8-hour work shift.

Mr. Schults understood at the time of hire that the company did not provide lunch breaks. Company policy allows employees to take "up to 40 minutes per 8-hour shift" for break and meal periods. Based upon the policy the claimant believed that he would be given a reasonable opportunity to take one or more breaks during an 8-hour work shift. After becoming employed the claimant found that the company did not use utility or floater workers to relieve workers on production machines so as to allow the production workers to take one or more breaks during the work shift. Company employees are expected to maintain production during their 8-hour work shift and to fit in breaks, if possible, while production continues.

Because of the nature of the production machine that Mr. Schults was assigned to, he was routinely unable to take any work breaks during his 8-hour shift without substantially interrupting his production or causing completed production to fall to the floor.

Although it is the employer's position that company employees would "help" employees who had fallen behind or that employees could stay beyond their work shift to complete work, Mr. Schults reasonably concluded that allowing his machine to continue producing in his absence would compound his work issues and jeopardize his employment for that reason. Based upon the production requirements of other employees, the claimant did not believe additional help would be available to assist him. Claimant noted that male employees often had to run to an exit door to urinate because they did not have sufficient time to go to a bathroom while production continued.

One month before leaving employment Mr. Schults brought his dissatisfaction to the attention of the company during a meeting requesting a change in the way production employees were allowed breaks during the 8-hour shifts. When the employer's policies did not change, Mr. Schults made a decision to leave his employment believing that the work requirements were detrimental to him.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily left employment with good cause attributable to the employer.

Iowa Code § 96.5-1 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.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The claimant has the burden of proving that the voluntary leaving was for a good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of their reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). Claimants are not required to give notice of intention quit due to intolerable, detrimental or unsafe working environments if the employer had or should have had reasonable knowledge of the condition. Hy-Vee v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2000).

The claimant in this case gave notice to the employer one month before quitting informing the company that due to the nature of his duties and the machine that he was assigned to that he was essentially precluded from taking any breaks during his 8-hour work shift. The employer's response was that if the claimant got behind in his work others would help him or that he could

remain after the work shift to complete his duties. The administrative law judge concludes that Mr. Schults was reasonable in his conclusion that insufficient help was available to assist him and that failure to make required production during the eight hours each night would jeopardize his employment.

While it appears that not all production workers on the shift were affected in the same manner, the administrative law judge concludes that the claimant's assigned job responsibilities essentially precluded him from taking sufficient time away from his production machine for bathroom breaks. The employer's failure to make some accommodation to the claimant after being provided one month's notice of the claimant's dissatisfaction resulted in the claimant leaving employment for reasons that were attributable to the employer. Benefits are allowed, providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated July 28, 2011, reference 01, is affirmed. Claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs