

**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**

**LYLE G HUINKER
PO BOX 142
FT ATKINSON IA 52144**

**ROSS MARKETING INC
1395 STAMY RD
HIAWATHA IA 52233**

**Appeal Number: 06A-UI-00246-HT
OC: 12/04/05 R: 04
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) - Quit

STATEMENT OF THE CASE:

The claimant, Lyle Huinker, filed an appeal from a decision dated December 29, 2005, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 24, 2006. The claimant participated on his own behalf. The employer, Ross Marketing, participated by Director of Human Resources Judy Matousek.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Lyle Huinker was employed by Ross Marketing from September 6 until October 26, 2005. He was a full-time telephone service representative.

The claimant gave a verbal resignation to Center Manager Ron Dick on October 26, 2005, saying that he "could not handle the job anymore." Mr. Huinker was upset about the way some of the people he contacted responded to the call, being angry, threatening, and abusive. His supervisor, Jeff Brymer, told him to hang up when these incidents occurred, that he was not required to stay on the line if he was being threatened and abused.

Mr. Huinker was also concerned he might be fired because he had been calling in sick due to stress, although he had not received any verbal or written warnings about his attendance.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

Iowa Code section 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 24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

871 IAC 24.25(33) 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The claimant quit because he did not like having to deal with the hostility from people he called in the course of his job duties. He was not required to remain on the phone if the person he was calling became abusive or threatening, but this was not sufficient to assuage his concerns. He elected to quit because of the stress, although he did not consult a doctor and did not have a physician's recommendation he quit.

He also quit because he was afraid his increasing number of absences might lead to discharge, but the employer had never issued any warnings and continuing work was still available to him at the time he quit. Under the provisions of the above Administrative Code sections, neither of these reasons constitutes good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of December 29, 2005, reference 01, is affirmed. Lyle Huinker is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/kjw