

**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**

**EDWARD D BICE
8080 N 51ST AVE
GLENDALE AZ 85302**

**HARVEYS BR MANAGEMENT CO INC
HARVEYS CASINO RESORTS
2701 – 23RD AVE
COUNCIL BLUFFS IA 51501**

**Appeal Number: 04A-UI-03874-DWT
OC 03/07/04 R 12
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 are 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:

Edward D. Bice (claimant) appealed a representative's March 29, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Harvey's Casino Resorts (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 April 27, 2004. The claimant participated in the hearing. Annette Kisner, the human resource representative, appeared on the employer's behalf. 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 qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on March 4, 2003. He worked full time. On December 13, 2003, the employer gave the claimant his first written warning, but it was a final written warning for a problem the employer noticed. The claimant did not grieve or appeal this warning.

In January 2004, the claimant and his wife decided to reconcile. The claimant tried to transfer to a facility the employer owned in Arizona because he decided to move to Arizona. Even though the employer did not transfer him because of the written warning he received in mid-December, the claimant gave the employer his two-weeks' notice. The claimant's last day of work was February 6, 2004. The claimant then moved to Arizona.

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 when he gave the employer his two-weeks' notice. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant has quit employment without good cause when he leaves to relocate. 871 IAC 24.24(2). The claimant quit his employment for compelling and commendable personal reasons. He quit to relocate to Arizona so he could reconcile with his wife. For unemployment insurance purposes, the claimant's reasons for quitting do not qualify him to receive unemployment insurance benefits. As of March 7, 2004, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 29, 2004 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 March 7, 2004. 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/b