

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

KEVIN L WELSH
1819 – 5TH AVE SE
CEDAR RAPIDS IA 52403

RICK MILLER CONSTRUCTION INC
2614 – 37TH AVE SW
CEDAR RAPIDS IA 52404-6432

Appeal Number: 05A-UI-03085-H2T
OC: 03-06-05 R: 03
Claimant: Respondent (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 Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 16, 2005, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on April 12, 2005. The claimant did not participate. The employer did participate through Rick Miller, Owner.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed through March, 2004 when he was laid off as the business changed from having employees to independent contractors. No further work was available for the claimant as an employee of Rick Miller Construction. The claimant continued to work as an independent contractor but did not earn covered wages after March 2004.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to a lack of work.

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.

As of March 2004 the employer no longer offered the claimant work as an employee, he was only offered work as an independent contractor. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The March 16, 2005, reference 02, decision is affirmed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

tkh/pjs