

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY D BRIGGS

Claimant

APPEAL NO. 11A-UI-10719-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC

Employer

OC: 07/17/11

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated August 10, 2011, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on September 7, 2011. Claimant participated personally. The employer participated by Mr. Troy Meyers, General Manager, and Mr. Mitch Lapos, Department Manager.

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: Gary Briggs was employed by Menard, Inc. from August 13, 2008 until May 16, 2011 when he voluntarily left employment. Mr. Briggs worked as a part-time sales representative and was paid by the hour.

Mr. Briggs quit his employment with Menard, Inc. on July 16, 2011 after receiving a three-day suspension from work. The claimant felt that the reprimand/suspension was unjustified and quit for that reason.

Mr. Briggs was suspended for three days after the employer reasonably concluded that Mr. Briggs had caused a company customer to become upset and dissatisfied on or about July 16, 2011.

On that date the claimant and the customer were observed by Mr. Lapos, claimant's supervisor. Mr. Lapos concluded that Mr. Briggs had acted inappropriately after the customer specifically complained that Mr. Briggs had been "condescending" and "rude" to him. Based upon Mr. Lapos' observations that day and the statement of the disgruntled customer, Mr. Lapos believed that the complaint was justified. The company had received a number of other complaints in the past about Mr. Briggs' demeanor. A three-day suspension was, therefore, issued to Mr. Briggs to emphasize the importance of dealing with company customers in an appropriate way.

After considering the matter, Mr. Briggs decided to quit his employment with the company. Claimant felt that the reprimand was unjustified. Mr. Briggs was free to go up the chain of command within the company if he felt that his supervisor's disciplinary action was inappropriate. The claimant chose not to do so but decided to quit his job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

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(28) 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:

(28) The claimant left after being reprimanded.

The evidence in the record establishes that Mr. Briggs left his employment due to dissatisfaction with receiving a reprimand from the employer which included a three-day suspension from work. The evidence in the record establishes that Mr. Briggs has previously been verbally warned for similar conduct and that the warning was reasonable and work related.

Based upon the complaints made by the disgruntled customer, the employer concluded that Mr. Briggs had acted contrary to previous verbal warnings and counselings for similar conduct and elected to issue Mr. Briggs a further warning with a three-day suspension to emphasize the employer's work expectations.

Mr. Briggs elected not to utilize a reasonable alternative available to him such as complaining about the disciplinary action through the company's internal complaint procedures for employees but instead to quit employment.

While Mr. Briggs' decision to leave employment was undoubtedly a good decision from his personal viewpoint, for the above-stated reasons the administrative law judge concludes that the claimant's reason was not for a good cause reason attributable to the employer. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated August 10, 2011, reference 01, is affirmed. Claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs