

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 RICE
406 E FULTON
DOW CITY IA 51528

SITEL CORPORATION
c/o JON-JAY ASSOCIATES INC
PO BOX 182523
COLUMBUS OH 43218-2523

Appeal Number: 06A-UI-06165-CT
OC: 05/21/06 R: 01
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) – Voluntary Quit

STATEMENT OF THE CASE:

Edward Rice filed an appeal from a representative's decision dated June 8, 2006, reference 01, which denied benefits based on his separation from Sitel Corporation. After due notice was issued, a hearing was held by telephone on July 6, 2006. Mr. Rice participated personally and offered additional testimony from Kelly Lembke. The employer participated by Jill Johnson, Human Resources Manager, and Alisha Niles, Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Rice began working for Sitel Corporation on

August 22, 2005 as a full-time customer service representative. On December 2, he was notified that he had missed 16 hours of work during that pay period and needed to make up at least eight of those hours during that same pay period. It was suggested that he try to make up some hours on December 2 in the event of bad weather on December 3. Mr. Rice was told he might be discharged if the eight hours were not made up on December 2 and/or December 3.

Mr. Rice did not work on December 3 because of a snowstorm. When he reported to work on December 5, he expected to be discharged. He was told the employer had not made a decision regarding his continued employment because the attendance records were not yet available. Mr. Rice indicated he was quitting because he needed to get a job closer to home. He wanted to spare himself the embarrassment of being pulled from the work floor and discharged. The fact that he could not get to work on December 3 because of weather conditions would have played a part in the employer's decision as to whether he would be discharged. At the time Mr. Rice announced that he was quitting, continued work was available.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Rice was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Rice quit because he anticipated that he would be fired. However, the employer had not reviewed the records or considered the reason he did not make up hours from the previous pay period. The employer may well have decided not to discharge because of the fact that he could not make up his hours due to the snow storm. By quitting, Mr. Rice preempted any decision on the employer's part regarding his continued employment.

The administrative law judge appreciates that Mr. Rice wanted to avoid the embarrassment of being discharged. However, unless one's resignation has been requested by the employer, a quit to avoid embarrassment is not for good cause attributable to the employer. Moreover, as indicated earlier herein, Mr. Rice did not know whether he would be discharged. The "probability" of discharge is not a discharge. Mr. Rice told the employer he was quitting to find work closer to home. He knew the commuting distance when he accepted the employment. Therefore, the fact that he wanted work closer to home was not a cause attributable to the employer for quitting.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Mr. Rice did not have good cause attributable to the employer for quitting. Accordingly, benefits are denied.

DECISION:

The representative's decision dated June 8, 2006, reference 01, is hereby affirmed. Mr. Rice voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/cs