

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

MICHAEL D BOUYER
1624 - 7TH ST
DES MOINES IA 50314

KELLY SERVICES INC
999 W BIG BEAVER RD
TROY MI 48084-4716

NUNC PRO TUNC
Appeal Number: 06A-UI-05633-SWT
OC: 04/23/06 R: 02
Claimant: Appellant (5)

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:

The claimant, Michael Bouyer, appealed an unemployment insurance decision dated May 18, 2006, reference 01, that concluded the claimant voluntarily quit employment for good personal cause. This decision was later modified in a decision dated June 15, 2006, reference 04, that also allowed benefits to the claimant but stated he had voluntarily quit employment with good cause attributable to the employer due to intolerable working conditions. A telephone hearing was held on June 15, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Stephanie Webber participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked from October 4, 2005, to April 21, 2006, on an assignment at EDS. He was laid off that assignment.

The claimant accepted an assignment at Eastern Iowa Tire on April 26, 2006. The job involved pulling orders for tires in a tire warehouse. The job was to last for approximately one month. After working several hours on the job, the claimant determined the job involved a risk to his safety because he was required to climb on stacks of tires without any ladder and carry heavy truck tires without any forklifts or other machinery. He called a representative with the employer and told her about his safety concerns. He told her that he would finish his shift but wanted a different assignment and was not going back to work at Eastern Iowa Tire. The representative told the claimant that he could leave right away.

The claimant called the employer the next day and was informed that the employer did not have another assignment for him.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. The evidence establishes that the claimant was permitted to leave the assignment with permission from the employer. This would not be considered a quitting of his employment with the employer or a discharge for work-connected misconduct. Even if the separation was considered a voluntarily quit, it was for good cause attributable to the employer because of intolerable working conditions.

The claimant's claim is locked due to a voluntarily quit disqualification, which was in error. He remains subject to an availability disqualification, which is explained in appeal 06A-UI-05634-SWT.

DECISION:

The unemployment insurance decision dated May 18, 2006, reference 01, is modified with no effect on the outcome of this case. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

saw/kkf/pjs