

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

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Appeal Number: 05A-UI-02435-H2T  
OC: 02-06-05 R: 03  
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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 8, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 28, 2005. The claimant did participate. The employer did participate through Sharon Moeller, Office Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an auto technician, full time, beginning June 15, 2001 through January 3, 2005 when he voluntarily quit his job. The claimant was injured in non-work related

incident in November 2003. He was periodically off work for treatment and for therapy throughout the next year. The claimant was taken off work by his doctor on August 9, 2004 and was eventually released to return to work on January 3, 2005. As part of his job duties the claimant was required to wear a uniform provided by the employer. Harold Jenkins called the claimant sometime in late November or early December and left a message on the claimant's answering machine for him to bring in his uniforms. The claimant admits that Mr. Jenkins never told him that he was being discharged. The employer wanted the uniforms returned because they were paying rental fees on uniforms that were not being used. After receiving the message the claimant did not call the employer to inquire if he was being discharged, he just assumed he was because the employer asked for the return of his uniforms.

The paperwork that had been sent to the claimant in September and October was with regard to his insurance. The claimant was required to pay a portion of the premium for his insurance policy and had not been doing so. The request for payment of insurance premiums is not a discharge from employment. Ms. Moeller asked Mr. Jenkins if he ever told the claimant he was discharged. Mr. Jenkins indicated he only asked for the uniforms back because he was trying to save the employer rental fees on them. The claimant admits that Mr. Jenkins never told him he was discharged. After receiving the telephone message from Mr. Jenkins about returning his uniforms, the claimant did not call Mr. Jenkins or anyone else at the employer's business to inquire about the status of his employment.

#### 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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2 (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but were not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. When the claimant received the phone message that the employer wanted his uniforms returned he had an obligation to confirm his employment status instead of just assuming he was discharged. The claimant admits that Mr. Jenkins did not tell him he was discharged, just to bring in his uniforms. Had the claimant inquired further he would have discovered that the employer was trying to save rental fees on uniforms that were not being used, not discharge him from employment. The claimant then never returned to work, notwithstanding the fact that he was released to return to work on January 3, 2005. The administrative law judge concludes the claimant voluntarily quit his employment by failing to return to work. His leaving was without good cause attributable to the employer. Benefits are denied.

DECISION:

The March 8, 2005, reference 01, decision is affirmed. The claimant voluntarily left employment without 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 benefit amount, provided he is otherwise eligible.

tkh/kjf