

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

HAMDO JASAREVIC  
321 CREIGHTON AVE  
DES MOINES IA 50314

MERRITT COMPANY INC  
PO BOX 3657  
URBANDALE IA 50323

Appeal Number: 04A-UI-05642-SW  
OC: 04/18/04 R: 02  
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, 4<sup>th</sup> 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 Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 13, 2004, reference 02, that concluded he voluntarily quit employment without good cause attributable to the employer. A hearing was held on June 15, 2004, in Des Moines, Iowa. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of an interpreter, Zeljka Krvavica. Jeff Flannery participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time for the employer as a janitor from August 12, 2002 to April 17, 2004. Jeff Flannery was his supervisor. The claimant was given the assignment to clean the offices in several buildings. The claimant initially had no set schedule and was required to do the cleaning before the buildings opened in the morning. He was remodeling his house during

the day and was arriving later and later to clean his buildings. Flannery was not able to go home, however, if he did not know whether the offices were going to be cleaned or not. As a result, Flannery instructed the claimant to call him if the claimant was not going to start work until after midnight so he could go home. The claimant did not obey this instruction because he thought Flannery should trust him since he had always gotten his work done in the past.

On April 20, 2004, the claimant did not start work by midnight and did not call Flannery to let him know that he was going to come in after midnight to clean. When Flannery discovered that none of the three buildings were cleaned by 1:00 a.m., he sent another crew to do the work. When the claimant showed up, he noticed the crew cleaning his building. He asked Flannery if Flannery was going to clean the building, and Flannery replied, "unless you are." The claimant became upset because he believed Flannery was taking his work and did not trust him to do the work assigned to him. He left work and the next day, the claimant went into the employer's main office and turned in his keys. The claimant voluntarily quit his employment because Flannery was taking over his work assignment and did not trust him to complete his work.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit 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.

Flannery acted reasonably in requiring the claimant to call him if he was not going to start work by midnight. He also acted reasonably when he assigned another crew to do the work after the claimant disobeyed his instruction. The claimant was not terminated from his job, but instead quit working for the employer even though work was still available. He quit work without good cause attributable to the employer.

#### DECISION:

The unemployment insurance decision dated May 13, 2004, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

saw/smc