

**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 R WINGERT
1662 W 30TH ST
SIOUX CITY IA 51103**

**STAGELINE COMPANY
5430 HARBOR DR
SIOUX CITY IA 51111**

**Appeal Number: 05A-UI-05570-DT
OC: 04/24/05 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 Leaving

STATEMENT OF THE CASE:

Michael R. Wingert (claimant) appealed a representative's May 16, 2005 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Stageline Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 14, 2005. The claimant participated in the hearing. Marsha Bedwell appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on August 15, 1991. He worked full time as a truck driver in the employer's United States Postal Service contract mail delivery business running routes between Sioux City and Des Moines. His last day of work was February 28, 2005.

On January 21, 2005 the claimant asked Ms. Bedwell, the general manager, for vacation for the month of February 2005. She told him that due to the business volume and due to the fact that contact expired on June 30, 2005 and the owner was seeking to sell the operation, no vacation could be approved until probably June. The employer had only eight trucks and eight drivers. On February 15, 2005, the claimant asked for March 1 through March 20, 2005 off as vacation. Ms. Bedwell again denied his request and reminded him that she had previously told him that there would be no vacation available. Between the claimant's January request and his February request, the claimant's son in California had sent the claimant a plane ticket for March 1, 2005. When Ms. Bedwell told the claimant on February 15, 2005 that his vacation request was still denied, he told her he was going to go anyway. On February 17, 2005, the employer gave the claimant a letter informing him that should he decide to take the vacation despite the denial, he would not have employment to return to. The claimant responded that he was still going to go anyway, and, in fact, he did.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for 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 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The intent to quit can be inferred in certain circumstances. For example, leaving for a vacation rather than working as directed is considered to be a voluntary quit. 871 IAC 24.25(25), (27). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's May 16, 2005 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of March 1, 2005, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

ld/pjs