

**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**

**RONALD J JONES
408 MAIN ST
GRAY IA 50110**

**GENE FENTON INC
1032 – 4TH AVE
AUDUBON IA 50025**

**Appeal Number: 05A-UI-06963-HT
OC: 05/08/05 R: 01
Claimant: Respondent (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) – Quit

STATEMENT OF THE CASE:

The employer, Gene Fenton, Inc. (Fenton), filed an appeal from a decision dated June 24, 2005, reference 02. The decision allowed benefits to the claimant, Ronald Jones. After due notice was issued, a hearing was held by telephone conference call on July 25, 2005. The claimant participated on his own behalf. The employer participated by President Diane Fenton.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Ronald Jones began working for Fenton in June 1993. He was involved in a work-related accident on May 16, 2003. He was released to

return to work on December 29, 2003, without restrictions. It was the intent of his doctor to see if he could return to driving.

Mr. Jones worked for about a week and could not continue because his injured ankle was swelling up. His doctor provided a note releasing him from work until after scheduled surgery on February 10, 2004. After that he was never released to return to work without restrictions. He could only do sedentary jobs which did not entail any standing or walking. The employer was notified by a health care nurse that Mr. Jones could not return to work.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is not.

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 quit because there was no work for him to do as a result of his work-related injury. Where illness or disease directly connected to the employment make it impossible for an individual to continue in employment because of a serious danger to health, termination of employment for that reason is involuntary and for good cause attributable to the employer even if the employer is free from all negligence or wrongdoing. Raffety v. IESC, 76 N.W.2d 787 (Iowa 1956). The claimant is qualified for benefits.

DECISION:

The representative's decision of June 24, 2005, reference 02, is affirmed. Ronald Jones is qualified for benefits provided he is otherwise eligible.

bgh/kjw