

**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 A SMITH
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**JELD-WEN INC
c/o TALX – UC EXPRESS
P O BOX 283
ST LOUIS MO 63166-0283**

**Appeal Number: 04A-UI-10017-SWT
OC 08/22/04 R 02
Claimant: Appellant (2)**

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-a - Voluntary Quit to Accept Other Employment

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 10, 2004, reference 01, that concluded he voluntarily quit employment without good cause. A telephone hearing was held on October 7, 2004. The claimant participated in the hearing with a witness, Chris Veverka. Doretha Washington participated on behalf of the employer with witnesses, Brent Mintle and Scott Pease.

FINDINGS OF FACT:

The claimant worked full time for the employer as a machine operator from August 2002 to August 27, 2004. He was offered and accepted full-time employment with Midwest Manufacturing that was to begin at the end of August. On August 12, 2004, the claimant informed the employer that he was leaving employment on August 27 to take another job.

On August 24, 2004, Midwest Manufacturing withdrew its job offer after a physical determined that the claimant possibly had carpal tunnel syndrome. The claimant contacted his supervisor on August 25 to see if he could return to work for the employer, but his supervisor told him that the employer was downsizing and would not allow him to withdraw his resignation.

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-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

The claimant left work to accept other employment but was separated from that employment before he started the job. The claimant is qualified to receive unemployment insurance benefits based on his separation from employment with the employer, provided he is otherwise eligible. Pursuant to the statute, the employer's account will not be charged for benefits paid to the claimant.

DECISION:

The unemployment insurance decision dated September 10, 2004, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, provided he is otherwise eligible. The employer's account will be exempt from charge for benefits paid to the claimant.

saw/s