

**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**

**TONY L JOHNSON  
18251 LASSITER LN  
WAYNESVILLE MO 65583**

**REALCO RENTALS  
14792 HELIX DR  
SAINT ROBERT MO 65584**

**Appeal Number: 04A-UI-03084-CT  
OC: 01/25/04 R: 12  
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:

Tony Johnson filed an appeal from a representative's decision dated March 8, 2004, reference 01, which denied benefits based on his separation from Realco Rentals. After due notice was issued, a hearing was held by telephone on April 13, 2004. Mr. Johnson participated personally and offered additional testimony from Linda Toole and Tricia Bradberry. Exhibits A, B, and C were admitted on Mr. Johnson's behalf. The employer participated by Charles Hamilton, President, and John Roberts.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Johnson was employed by Realco Rentals from October 6, 2003 until January 27, 2004. He was employed as manager of Valley Park, a mobile home court. On January 26, Mr. Hamilton found that the roads in the trailer court were snow and ice covered. Mr. Johnson was grading the roads at that time. Mr. Hamilton directed him to put gravel on the roads and Mr. Johnson indicated he would get the Bobcat to get gravel. Mr. Hamilton said "fuck the Bobcat" and directed Mr. Johnson to get gravel with the corner of the snow blade. Approximately five minutes later, Mr. Johnson went to the office, left his keys and advised Mr. Hamilton that that was the last "ass-chewing" he was going to take.

Mr. Johnson cited several reasons for his decision to quit. He complained that the employer directed him to shoot stray animals in the trailer court. Mr. Johnson did not shoot any animals but did take them away from the trailer court and release them. He also complained that the employer required him to go to the junk yard and purchase car titles from wrecked vehicles in December of 2003. Mr. Johnson did not complain about the directive at the time and was not directed to perform this task on any other occasions. He also complained that the employer was illegally adding trip charges to tenants' accounts when he had to go to their homes to collect rent. Mr. Johnson was unable to cite any authority for his contention that this activity was illegal. There were occasions on which Mr. Johnson was required to build decks for trailers. He complained that this work was being done without the required building permits.

Mr. Johnson continued working for the employer in spite of what he considered to be illegal activities on the part of Mr. Hamilton. Continued work would have been available if he had not quit.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Johnson was separated from employment for any disqualifying reason. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1). Mr. Johnson had the burden of proving that his quit was for good cause attributable to the employer. Iowa Code Section 96.6(2). He quit after he was reprimanded for not having properly taken care of snow and ice on roadways in the trailer court. Although Mr. Hamilton did use the word "fuck," he did not have a history of being verbally abusive or directing profanity towards Mr. Johnson. Mr. Hamilton's single hot-headed statement did not constitute good cause attributable to the employer for quitting.

Mr. Johnson listed a number of other matters as contributing to his decision to quit. The remaining matters were activities that he had willingly participated in at the direction of his employer. He built decks for the employer without complaint in spite of the fact that building permits were not obtained. He did not refuse to shoot stray animals, he simply did not shoot any and never advised the employer that he found the request objectionable. He failed to establish that the employer was prohibited from assessing a trip charge when he went to homes to collect rents. Mr. Johnson contended that he did not know that some of the activities he engaged in were illegal until after he had performed them. However, he did not quit the employment when he concluded that the employer was engaging in activities he considered illegal. If he quit because he felt his own ethics were being compromised, one would have expected him to have quit when he determined that the activities were illegal. However,

Mr. Johnson remained in the employment and quit only after he was reprimanded for not having properly cleared roads.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Mr. Johnson has failed to satisfy his burden of proof. An individual who leaves employment after being reprimanded is presumed to have quit for no good cause attributable to the employer. See 871 IAC 24.25(28). Mr. Johnson has failed to overcome this presumption. For the reasons stated herein, benefits are denied.

DECISION:

The representative's decision dated March 8, 2004, reference 01, is hereby affirmed. Mr. Johnson voluntarily quit his employment for no 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/kjf