

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**NORMAN D HOLLESEN**  
Claimant

**CONTINENTAL FIRE SPRINKLER CO**  
Employer

**APPEAL 14A-UI-11635-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/20/13  
Claimant: Appellant (2)**

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Iowa Code § 96.5(2)a – Discharge/Misconduct  
Iowa Code § 96.5(1) – Voluntary Leaving  
871 IAC 24.26(4) – Intolerable Working Conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 31, 2014, (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 2, 2014. Claimant participated. Employer did not participate.

**ISSUE:**

Was the claimant discharged due to job connected misconduct or did he voluntarily quit his employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a pipe fitter beginning on July 5, 1998 through September 25, 2014 when he was discharged. The claimant had been working in a meat packing plant for approximately five months installing a new sprinkler system. Near the end of his employment he was told that he would need to work 30 feet in the air above the production line while the line was still operating. The plant was greasy and surfaces were slippery, including the ladder the claimant would have been standing on. He told both the safety manager and his new superintendent Joe Leiden that he thought working above the line while it was operating was too dangerous. He was told that putting up scaffolding to protect him was too costly and there was no way for him to tie off safety. The claimant refused to work so high in the air without safety precautions above the production line. He was told he either had to perform the work as instructed or he could quit. The claimant chose to quit rather than work in an unsafe manner the employer was requiring.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(2), (4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

The Supreme Court recently concluded that notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The claimant was being required to work in unsafe work conditions. Having an employee work 30 feet in the air with no tie off option and no scaffolding over a moving production line creates a fall hazard that is an intolerable work environment. The employer's failure to provide a safe work environment for claimant provided a good cause reason for leaving the employment. Benefits are allowed.

**DECISION:**

The October 31, 2014 (reference 04) decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs