

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

GUSTAF R CARLSON
4014 QUEBEC
AMES IA 50014

O'BRIEN PHILLIP SCOTT
LARRY'S APPLIANCE SERVICE
504 E LINCOLN WAY
AMES IA 50010-6666

Appeal Number: 05O-UI-12244-HT
OC: 09/04/05 R: 02
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) - Quit

STATEMENT OF THE CASE:

The claimant, Gustaf Carlson, filed an appeal from a decision dated October 7, 2005, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 20, 2005. The claimant participated on his own behalf. The employer, Larry's Appliance Service, participated by Owner Phillip O'Brien.

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: Gustaf Carlson was employed by Larry's Appliance

from January 1996 until September 10, 2005. At the time of separation he was a full-time assistant store manager and project manager.

In July 2005 Owner Phillip O'Brien notified the claimant he was going to be made a full-time project manager, although his duties had always included some responsibilities in this area. The claimant has overseen other workers and always had someone to do heavy lifting for him as he had some physical limitations in this area. The owner indicated he would have to plan the projects more carefully in the future to avoid cost overruns in the area of hiring more staff. The claimant took this to mean he would have to do some of the lifting himself, but the employer only meant to plan more carefully and conserve the company's financial resources.

Mr. Carlson agreed to stay on and try the job but then submitted a written resignation September 10, 2005, stating he would be leaving September 16, 2005. The majority of the reasons he gave for his decision to quit was an inability to work with, and a dislike of, other employees, namely Aryn and Doug. He also disagreed with the manner in which Mr. O'Brien was running the company. The employer accepted his resignation.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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(6) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(6) The claimant left as a result of an inability to work with other employees.

871 IAC 24.25(21) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following

reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

The claimant asserted that he quit because of physical limitations on his ability to do some of the jobs, but that is not supported by his letter of resignation. The "major factors" listed for his decision to resign was disagreement with the management and inability to work with other employees. The employer was willing to accommodate his physical limitations by having other employees do the heavy lifting but only asked in return that the projects be more carefully planned to avoid hiring more people than were necessary.

The record establishes the claimant quit because of inability to work with other employees and general disagreement with the company. Under the provisions of the above Administrative Code sections, these do not constitute good cause attributable to the employer for quitting. The claimant is disqualified.

DECISION:

The representative's decision of October 7, 2005, reference 01, is affirmed. Gustaf Carlson is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/kjw