

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

WILLIAM F HINDLEY  
133½ FIFTH AVE S  
#7  
CLINTON IA 52732

ARCHER-DANIELS-MIDLAND COMPANY  
c/o TALX UC EXPRESS  
P O BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-03226-DT  
OC: 02/22/04 R: 04  
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 Leaving

STATEMENT OF THE CASE:

William F. Hindley (claimant) appealed a representative's March 18, 2004 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Archer-Daniels-Midland Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 14, 2004. The claimant participated in the hearing. Kevin Duffy appeared on the employer's behalf. One other witness, Bryce Albrechtsen, was available on behalf of the employer but did not testify. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on October 16, 1989. He worked full time as a sheet metal worker in the fabrication shop of the employer's Clinton, Iowa agricultural processing facility. His last day was April 1, 2003.

The claimant had prior issues with depression. In the spring of 2003, the claimant was again becoming depressed due to some personal and financial issues. He felt unsafe in working, and so did not report for work on April 2, April 3, or April 4. When he sought to return to work on April 7, he spoke with Mr. Duffy, the facility supervisor. When Mr. Duffy became aware of how the claimant felt, he referred the claimant to the employer's Employee Assistance Program (EAP). The claimant met with counselors from EAP on a number of occasions. The counselors agreed that he should not return to work until he felt he could work safely, and indicated he should continue counseling. However, after a certain number of visits, the employer did not cover further costs of counseling. The claimant determined that he could not continue counseling, and therefore did not comply with the EAP recommendations. He did not return to work because he still did not feel safe. The employer considered the claimant as having abandoned his job as of June 10, 2003. The claimant left the area for several months. In approximately November 2003 he returned and accepted a job with another employer for which he completed a brief portion of training and then quit because he concluded that he was still not mentally able to handle working.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

Iowa Code Section 96.5-1-d 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:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

871 IAC 24.25(35) 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

871 IAC 24.25 provides that, 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 claimant did express intent not to return to work with the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out by abandoning his job. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code Section 96.6-2. While the claimant had a compelling personal reason for leaving his employment, it was not a good cause attributable to the employer. 871 IAC 24.25(20). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's March 18, 2004 decision (reference 02) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of April 7, 2003, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

ld/s