

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

DAVID P HEINS
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SEIBERT TRUCKING INC
PO BOX 391
JOHNSTON IA 50131-0391

Appeal Number: 05A-UI-02688-H2T
OC: 01-30-05 R: 02
Claimant: Respondent (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 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 3, 2005, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on April 12, 2005. The claimant did participate. The employer did participate through Deb Seibert, President.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a mechanic part time beginning June 17, 2004 through November 23, 2004 when he voluntarily quit by failing to show up for work after that date. At the time the claimant was working for Seibert Trucking he was working days from approximately 7:00 a.m. until 5:00 p.m. for another employer, TKI.

While Ms. Seibert tried to contact the claimant on several occasions after November 23, to ask him to come to work, she was never able to reach him. Ms. Seibert had given the claimant a cell phone so that she would be able to reach him to ask him to come into work. She left numerous messages on the cell phone asking the claimant to call her for additional work but she never heard from him. In December 2004 she asked the claimant to return the cell phone as it was clear he was no longer willing to work for Seibert Trucking. Had the claimant responded to any of Ms. Seibert's requests, continued work was available for him. The only reason the claimant was not working for Seibert Trucking after November 2004 was because he did not want to.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2 (amended 1998). The claimant would not report for additional work after November 23, 2004 due in part to the fact that he was working for another employer. The claimant did not respond to Ms. Seibert's requests that he return to work. The claimant's leaving was without good cause attributable to the employer. Benefits are denied.

DECISION:

The March 3, 2005, reference 02, decision is reversed. The claimant voluntarily left his employment without 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 benefit amount, provided he is otherwise eligible.

tkh/pjs