Appeal Number: 04A-UI-02670-HT
OC: 02/08/04   **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, 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.

MICHAEL A ARMBRUSTER
LOT 122
1205 E PLATT ST
MAQUOKETA IA   52060

EAGLE WINDOW AND DOOR INC
ATTN AMY TURNER
P O BOX 1072
DUBUQUE IA   52004

_____
(Administrative Law Judge)

_____
(Decision Dated & Mailed)

Section 96.5-1 - Quit

STATEMENT OF THE CASE:

The claimant, Michael Armbruster, filed an appeal from a decision dated March 4, 2004, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on March 29, 2004. The claimant participated on his own behalf. The employer, Eagle Window and Door (Eagle), participated by Human Resources Representative Amy Turner.

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: Michael Armbruster was employed by Eagle from January 2, 2002 until February 3, 2004. He was a full-time laborer.

The claimant was no-call/no-show to work on February 1, 2 and 3, 2004. Mr. Armbruster received the employee handbook which states three days of no-call/no-show to work will be considered a voluntary quit. The claimant acknowledged he was absent from work on those days and did not call in because he felt he was being harassed by one of the team leaders. However, at no time did he go to this person's supervisor, the plant manager or the human resources department to express his concerns and ask that they be addressed.

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(4) provides:

> (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Under the provisions of the above Administrative Code section, three days of no-call/no-show to work is considered a voluntary quit without good cause attributable to the employer. In addition, the claimant's failure to bring his concerns to the attention of the employer prior to quitting, and allowing it an opportunity to address his complaints, also renders this a quit without good cause attributable to the employer under Swanson v. EAB, 554 N.W.2d 294 (Iowa App. 1996). He is disqualified.

DECISION:

The representative's decision of March 4, 2004, reference 01, is affirmed. Michael Armbruster is disqualified, and benefits are withheld until she has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/d