

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MICHAEL W INGLEDUE
Claimant

APPEAL NO. 10A-UI-14353-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MORTON BUILDINGS INC
Employer

**OC: 08/01/10
Claimant: Appellant (2)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Michael Ingledue (claimant) appealed a representative's October 11, 2010 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Morton Buildings (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 1, 2010. The claimant participated personally. The employer participated by Brad Johnson, Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on June 5, 2010 as a full-time crewman earning \$13.00 per hour. He regularly worked more than ten hours per day but was only paid for ten hour days. The claimant complained to his foreman and to a salesman. Both told the claimant that it was the way the employer did business. The claimant continued to work as many as fourteen hours per day but was paid for ten hours.

In June 2010, the claimant fell off a roof while working. The foreman knew about the fall but did not have the claimant complete an accident report or send him to a physician. Later his twisted his ankle at work. The foreman did not have the claimant complete an accident report or send him to a physician. The foreman knew the injury was serious because he told the claimant to take some time off work. Later the employer ridiculed him for not working.

The claimant worked his last day on August 2, 2010. He left in the middle of his shift because he wanted to be paid for all the hours he worked.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit with 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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He told the employer that he was leaving and quit work. In the absence of agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving the employment. Deshler Broom Factory v. Kinney, 140 Nebraska 889, 2 N.W.2d 332 (1942).

When an employee quits work because the employer did not pay wages when they were due without an agreement to the contrary, his leaving is with good cause attributable to the employer. The claimant left work because he was not paid his wages when they were due and there was no agreement to the contrary. His leaving was with good cause attributable to the employer. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's October 11, 2010 decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css