

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANKLIN D FINGER
Claimant

APPEAL NO. 09A-UI-00828-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAGEN INC
FAGEN CONSTRUCTION OF MINNESOTA
Employer

OC: 11/09/08 R: 01
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 13, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 4, 2009. Claimant participated. Employer participated by Greg Collins, Project Manager and Larry Ralph, Project Manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 23, 2008. Claimant quit because he was verbally reprimanded by Larry Ralph, Project Engineer in front of other employees. Profanity was not used. Claimant was upset over the way he was talked to. Employer tried to get claimant to come back after he quit. Claimant refused to discuss coming back because, “the damage was already done.”

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of verbal counseling by a supervisor. Claimant was upset over the way he was talked to. The incident was not of sufficient severity to constitute harassment or an intolerable work environment. Furthermore, employer tried to resolve this after claimant quit but claimant refused to discuss the issue. Claimant did not make sufficient efforts to resolve the conflict. This is a quit due to a personality conflict and dissatisfaction with the work environment.

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(21) and (22) provide:

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.

(22) The claimant left because of a personality conflict with the supervisor.

DECISION:

The decision of the representative dated January 13, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css