

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD LUCART
Claimant

APPEAL NO. 08A-UI-08576-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BFS RETAIL & COMMERCIAL OPS LLC
Employer

**OC: 08/24/08 R: 12
Claimant: Appellant (2)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Donald Lucart (claimant) appealed an unemployment insurance decision dated September 22, 2008, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with BFS Retail & Commercial Ops, LLC (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 9, 2008. The claimant participated through his wife, Tina Lucart. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted and, therefore, did not participate. Employer's Exhibit One was admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time general laborer from April 2008 through August 25, 2008, when he voluntarily quit. He was hired to change tires and was sent on a service call on August 25, 2008. The claimant had never worked with this kind of tire, which had a lock with rings on it. If the lock rings were not placed on it just right, it could cause injury and/or even death to the person working on it. The claimant said he did not know how to work on this tire and was not comfortable going alone to work on it but the employer told him to go anyway. When the claimant arrived to work on the tire, the customer asked if he had ever worked on this kind of tire and the claimant stated that he had not. The customer advised the claimant not to work on the tire if he had no experience because it could be very dangerous. The claimant went back to the work site and explained this to the employer, but the employer simply yelled at him. The claimant decided he was not going to take that and voluntarily quit his employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit his employment on August 25, 2008 because he was being sent to perform a dangerous task for which he had not been properly trained. He tried to explain his concerns but was sent anyway; and after arriving, the customer directed the claimant not to work on the tire, since he had no experience and it could be dangerous. When the claimant returned and told the employer he did not work on the tire, the employer yelled at him. Any reasonable person would not continue working under such conditions.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has satisfied that burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated September 22, 2008, reference 01, is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw