

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

WESLEY L ATKINSON
Claimant

APPEAL NO. 14A-UI-10164-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BIMBO BAKERIES USA INC
Employer

OC: 08/24/14
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 23, 2014, reference 02, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on October 23, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer as a bread wrap operator from July 9, 2013, to August 27, 2014.

The claimant quit employment on August 28, 2014, due to unsafe working conditions. The most recent incidents occurred on about August 24 and 27.

On August 24, the time belt on a machine broke and a heavy metal bar flew off the machine and came within a foot of hitting him. The claimant and other employees had complained to management about the issue but nothing had been done to address the issue.

Prior to August 27, the claimant had complained to management, the union, and human resources about a faulty mechanism on the bread slicer. The slicer has large sharp band saw blade. There was a part on order but instead of shutting down the machine until the part was replaced, the employer continued to run the machine bypassing a safety feature. The claimant had warned that if the mechanism broke the blade could get sucked up in the bagging system and employees could get injured. The mechanism broke on August 27 and a blade came off but the claimant was able to shut down the machine preventing additional damage. When supervisor and maintenance staff were brought in, the claimant felt their reaction was unconcerned. He learned that the part to fix the machine was at the plant but was not installed.

On August 28, the claimant notified the employer that he would not be returning to work due to the multiple safety violations.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

Iowa Admin. Code r. 871-24.26(2) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

The evidence shows the claimant left employment due to unsafe working conditions, he had complained about safety issues, but nothing was done to correct his concerns. Good cause attributable to the employer for leaving has been shown.

DECISION:

The unemployment insurance decision dated September 23, 2014, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css