

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**ALLEN COLLINS JR
543 REED ST
WATERLOO IA 50703-2447**

**FLYING J INC
c/o EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000**

**Appeal Number: 06A-UI-00278-DT
OC: 11/27/05 R: 03
Claimant: Appellant (2)**

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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Allen Collins, Jr. (claimant) appealed a representative's January 3, 2006 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Flying J. Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 25, 2006. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a representative or witness could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on November 21, 2004. He worked full time as a maintenance worker on the overnight shift at the employer's Evansdale, Iowa truck stop. His last day of work was November 29, 2005. He voluntarily quit that day.

The claimant had been becoming increasingly frustrated since a new general manager took over approximately the first of October 2005. His own supervisor had begun to take less interest in the facility and in supervising the maintenance crew. The maintenance workers on the other two shifts were doing less and less work on their shifts, leaving more and more work for the claimant to do on his shift. Supervisors of other departments in the truck stop confirmed to the claimant that the other maintenance workers were wasting time and not completing their duties on their shifts. The claimant advised his supervisor of the problem and that the workers on the other shifts needed further supervision, but there was no change. He did not feel he could go to the general manager as the general manager had recently declined to hear him when he had sought to defend himself against accusations made against him by another employee.

When the claimant arrived for his last shift, he found that despite the fact that business that day had been very quiet, the showers and other facilities appeared to have been untouched by the workers on the earlier shifts. He completed all of the cleaning, and as he left at the end of the shift he informed another department supervisor that he was quitting, that he could not take it anymore.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit for 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.

871 IAC 24.26(4) 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:

- (4) The claimant left due to intolerable or detrimental working conditions.

The claimant has demonstrated that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. EAB, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). "Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the

employer, but may be attributable to the employment itself. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988); Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The representative's January 3, 2006 decision (reference 02) is reversed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

ld/kjf