

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

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Appeal Number: 04A-UI-01160-SWT  
OC: 01/02/05 R: 04  
Claimant: Appellant (1)

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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 28, 2005, reference 01, that concluded he had voluntarily left employment without good cause attributable to the employer. A telephone hearing was held on February 17, 2005. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Shelley Moyers participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time for the employer as a machine operator from March 8, 2004 to December 31, 2004. On December 1, 2004, the claimant submitted a written resignation to the employer stating that he intended to leave employment at the end of the month to attend school. The claimant worked until December 31, 2004, and then voluntarily left employment to attend school. The employer had continuing work available for the claimant had he not chosen to quit his job.

When the claimant was called at the time of the hearing at 11:30 a.m., his phone was busy. Several calls were made, but the phone was busy each time. A message was left at an alternative phone number instructing the claimant to call in and providing him a number to call. After the hearing had concluded, the claimant called at 11:49 a.m. He explained that he had forgotten about the hearing because he was studying for a test and had called after listening to the message on his answering machine.

#### REASONING AND CONCLUSIONS OF LAW:

The first issue is whether the claimant has establish good cause for failing to participate in the hearing scheduled for 11:30 a.m. on February 17, 2005. The unemployment insurance rules provide that the hearing may be reopened if a party is unable to attend a hearing due to an emergency or other good cause. 871 IAC 26.8(3). The evidence fails to establish good cause to reopen the hearing.

The issue in this case is whether the claimant voluntarily quit employment without 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 24.25(26) provides:

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:

(26) The claimant left to go to school.

Although the claimant may have sought to better himself by going to school, this reason does not establish good cause attributable to the employer, which is required to receive unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated January 28, 2005, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

saw/kjf