

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LA DONTAE A SCOTT**  
Claimant

**APPEAL NO. 12A-UI-06556-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MATRIX METALS LLC**  
Employer

**OC: 04-01-12**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 4, 2012, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on July 17, 2012. The claimant did participate. The employer did not participate as the employer's representative did not answer the telephone when called to begin the hearing.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a welder full time beginning August 2, 2011 through May 17, 2012 when he voluntarily quit. The claimant was off work from March 9 through March 12 for a work-related injury and when he returned to work on March 13 he found the letters "F N G R" written near his work bench. He believed it to be a racial slur and reported it the employer. The employer investigated but could not discover who had written the letters. A number of the second shift workers would make comments about the claimant calling him the "colored boy." The claimant reported the incidents to his human resources representative and to his union representative but all employees interviewed by the employer denied making any offensive comments or referring to the claimant as a "colored boy." The coworkers did admit to "playing on the internet" while off work using racial slurs, but denied doing so while at work. When the slurs, comments and different treatment by coworkers did not end, the claimant voluntarily quit.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with 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.

In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005). The claimant was subjected to racial comments on his work bench, slurs and mistreatment from coworkers. He established that he voluntarily quit due to intolerable working conditions. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The June 4, 2012, reference 03, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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