

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

JOSEPH D RAMSEY
LOT #15
3102 N 15TH ST
FORT DODGE IA 50501

MENARD INC
3319 - 5TH AVE S
FORT DODGE IA 50501

Appeal Number: 04A-UI-11336-DWT
OC: 09/26/04 R: 01
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, 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 are 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 Quit

STATEMENT OF THE CASE:

Joseph D. Ramsey (claimant) appealed a representative's October 14, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Menard, Inc. (employer) would not be charged because the claimant voluntarily quit his employment 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 November 15, 2004. The claimant participated in the hearing. James McMenemy, attorney at law, appeared on the employer's behalf with Steven Sargent, the general manager, as a witness. Jennifer Sohl was available to testify. Based on the evidence, the arguments of the parties, 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 his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on July 16, 2003. The claimant worked full time in the building materials department.

Prior to September 27, 2004, the employer talked to the claimant about gossiping about other employees. The employer received a report from an employee(s) that the claimant was making comments about another employee's termination. As a result of these reports, the employer talked to the claimant on September 27.

During this meeting, the claimant became upset because Sargent talked harshly to him and accused him of gossiping about another employee who had been terminated. The claimant concluded Sargent yelled at him and made unnecessary comments that the claimant considered verbal abuse. The claimant did not tell Sargent he was verbally abusing him when Sargent gave the claimant a written warning for gossiping about another employee.

The claimant was so upset after Sargent gave him a written warning that the claimant went home early. After the claimant went home, he called the employer to report he was quitting because Sargent verbally abused him during the meeting that day.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The facts establish the employer gave the claimant a written warning, but did not discharge the claimant. The claimant made the decision he would not return to work and voluntarily quit his employment. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant has voluntarily quit without good cause when he leaves employment after being reprimanded. 871 IAC 24.25(28). The claimant asserted he quit because the store manager verbally abused him on September 27 when the employer gave him a written warning. If a claimant quits because of intolerable or detrimental working conditions, the law presumes he has quit with good cause. 871 IAC 24.26(4).

The evidence establishes the employer gave the claimant a written warning because the claimant again "gossiped" about another employee. The employer did not first talk to the claimant before concluding he had done this because the employer previously talked to the claimant about a similar situation. The employer may have used poor judgment by deciding the claimant again violated the employer's policy before the employer talked to the claimant, but the evidence does not support the claimant's assertion that the employer verbally abused him. The claimant testified that the store manager swore at him, but did not remember what the store manager said. Even if the store manager's conduct was abrasive and stern, this was an isolated incident. If the situation on September 27 was as bad as the claimant portrayed, it is difficult to understand why the claimant did not report this conduct to the employer's corporate

office. The claimant did not establish he quit because of intolerable or detrimental working conditions.

The claimant was understandably upset after the employer gave him a reprimand. The claimant may not have agreed with the employer's conclusion or that he even deserved a written warning, but the claimant had other means to resolve this solution. The claimant instead chose to quit. The claimant quit for reasons that do not qualify him to receive unemployment insurance benefits. As of September 26, 2004, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's October 14, 2004 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that do qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of September 26, 2004. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/tjc