

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

STEVE D MILLS
310 E LANE
JEWELL IA 50130

CARNEY & SONS INC
c/o SCHOENAUER MUSSER COMPANY
PO BOX 187
AMES IA 50010

Appeal Number: 04A-UI-06126-BT
OC: 05/16/04 R: 02
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 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 Quit

STATEMENT OF THE CASE:

Steve Mills (claimant) appealed an unemployment insurance decision dated May 28, 2004, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Carney & Sons, Inc. (employer) 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 June 28, 2004. The claimant participated in the hearing. The employer participated through Tom Carney.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time automotive dismantler from December 1999 through April 30, 2004. He quit his employment because of problems with his co-workers. His co-workers reported to the employer that the claimant was lazy and did not work until 5:30 p.m. as scheduled. The claimant had received a warning for being too slow. Since the owners no longer worked on Saturdays, it was impossible to determine what work the claimant did on Saturdays as he failed to document his work as required. His hours were being cut back from 5:30 p.m. to 5:00 p.m. and he was temporarily taken off the schedule on Saturdays. The claimant felt these actions were the direct result of his co-workers complaining about him instead of his own actions. He had never talked to the employer about any problems he might have been having before quitting. He felt everyone was turned against him and quit without notice.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits.

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(6) 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:

(6) The claimant left as a result of an inability to work with other employees.

The claimant voluntarily quit on April 30, 2004. It is his burden to prove that the voluntary quit was for a good reason that would not disqualify him. Iowa Code Section 96.6-2. He quit because he felt his co-workers were harassing him by reporting to the employer that he was lazy. The employer had reduced the claimant's hours but it was due to the claimant's actions and not those of his co-workers. However, even if the claimant felt his co-workers were harassing him, it was his responsibility to report their conduct to the employer before quitting his employment. His separation was without good cause attributable to the employer. Benefits are denied.

DECISION:

The unemployment insurance decision dated May 28, 2004, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount provided he is otherwise eligible.

sdb/kjf