

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

TED S DORITY  
512 - 14<sup>TH</sup> ST NW  
MASON CITY IA 50401

AMERICAN CRANE INC  
PO BOX 6  
GARNER IA 50438

Appeal Number: 06A-UI-07009-SWT  
OC: 06/04/06 R: 02  
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, 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 June 28, 2006, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on July 31, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Troy Monahan. John Collins participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time as a painter for the employer from July 6, 2005, to May 22, 2006. Troy Monahan was the claimant's immediate supervisor. John Collins is the owner of the business.

The claimant voluntarily quit employment on May 22, 2006, due to health and safety concerns related to the lack of proper ventilation in the paint booth. The claimant had complained about the lack of ventilation to Monahan and Collins but was told that there was not enough money to make any corrections. Collins had asserted that the ventilation system had been inspected by the Occupational Safety and Health Administration (OSHA), but that representation was untrue. The claimant was experiencing headaches and nausea and decided he needed to quit his employment due to his concerns about safety.

#### REASONING AND CONCLUSIONS OF LAW:

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 24.26(2) 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:

(2) The claimant left due to unsafe working conditions.

The claimant has established good cause for leaving employment due to unsafe working conditions. He complained about the working conditions but nothing was done to remedy the situation.

#### DECISION:

The unemployment insurance decision dated June 28, 2006, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

saw/kjw