

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES R SCHULTE
Claimant

APPEAL NO. 08A-UI-05486-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHRISTENSEN BROS INC
Employer

OC: 12-23-07 R: 01
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 4, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 25, 2008. The claimant did participate along with his witness, Tom Hirschman. The employer did participate through Scott Christensen, President.

ISSUE:

Did the claimant voluntarily quit his job with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a mechanic, full-time, beginning May 11, 2005, through May 13, 2008, when he voluntarily quit his job.

The claimant had previous confrontations with a truck driver coworker named Ron. On previous occasion Ron had threatened the claimant with physical harm with a piece of wood and with a crescent wrench. In the past when the claimant had complained to his supervisor, Lyle Kruger, Mr. Kruger had just laughed and not done anything to rectify the situation. On May 13 Ron again threatened the claimant with physical harm with a three and one-half foot pry bar. The claimant had been working on fixing a machine and Ron was not happy with how long it was taking the claimant to solve the problem. After Ron picked up the pry bar and threatened to physically harm the claimant, the claimant grabbed the pry bar away from him and locked himself in the shop as Ron had threatened to return to the shop and cause the claimant physical harm. The claimant went to Dave Peck, a supervisor, to seek help. Mr. Peck refused the claimant help without hearing any of the details of the incident. Mr. Christensen came upon Mr. Peck and the claimant and before even listening to the claimant describe what had occurred, Mr. Christensen told the claimant that he was going to have to learn to get along with Ron.

Mr. Hirschman's testimony indicated that it was Ron who was moody and had trouble getting along with other workers, including Mr. Hirschman. Ron did not testify at the hearing. The only person to witness what occurred between Ron and the claimant was the claimant.

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(2), (3), and (4) provide:

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.

(3) The claimant left due to unlawful working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment. Hy-Vee, Inc. v. Employment Appeal Bd., No. 86/04-0762 (Iowa, Nov. 18, 2005).

On May 13 the claimant sought assistance from both Mr. Peck and Mr. Christensen. Neither would even listen to his side of the story. The administrative law judge is persuaded that Ron threatened the claimant on more than one occasion, including on May 13, with physical harm. The claimant locked the door to the office, clearly evidencing his fear for his physical safety. The employer's failure to control Ron and to even address the threats of physical harm the claimant was subjected to created an intolerable work environment for the claimant. The claimant's leaving was with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The June 4, 2008, reference 01, 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw