FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer as a full-time fork lift operator from April 3, 2000 until he voluntarily quit on August 25, 2005. On that day the claimant informed the Warehouse Manager, Gerald Hoefer, the employer's witness, that he was quitting and left at approximately 1:30 p.m. when his shift was not to get over until 2:30 p.m. The claimant quit over a safety vest, which the employer had that day required their employees to wear. In the morning of August 25, 2005, the employer instructed the employees to wear a safety vest over their shirt at all times except when they were on break. The claimant was given these instructions, as were the other affected employees. Mr. Hoefer observed the claimant put his vest on over his shirt. Later, Mr. Hoefer asked an employee if the claimant was wearing a shirt under his vest. The employee said no. Mr. Hoefer approached the claimant at approximately 1:30 p.m. and asked the claimant if he had a shirt on under his vest. The claimant answered in the negative. Mr. Hoefer told the claimant to put a shirt on immediately. The claimant got upset and stated that he did not like the safety vest policy and took it and threw it on the ground and said he was going to quit and left. The claimant testified that he quit because of this incident with Mr. Hoefer alleging that Mr. Hoefer poked him in the stomach and was yelling at him about the vest and swearing at him. However, Mr. Hoefer did not poke the claimant in the stomach nor did he use profanity at the claimant but merely admonished the claimant for not wearing a shirt under his vest as he had been instructed earlier and told the claimant to put his shirt on under his vest. The claimant had taken his shirt off earlier because he believed it was hot in the warehouse. The claimant had never had any problems with Mr. Hoefer previously and had never expressed any concerns to the employer about Mr. Hoefer nor had he ever indicated or announced and intention to quit if his concerns about Mr. Hoefer were not addressed. The claimant had in the past expressed concerns to the employer about pay raises and had indicated an intention to quit over those, but that was not what caused the claimant to quit. The only reason for the quit was the incident with Mr. Hoefer and the new safety vest.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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)(21)(22)(27)(28) 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.

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

The parties agree, and the administrative law judge concludes, that the claimant left his employment voluntarily on August 25, 2005. the issue then becomes whether the claimant left his employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that he has left his employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet his burden of proof to demonstrate by a preponderance of the evidence that he left his employment with the employer herein with good cause attributable to the employer. The only reason given by the claimant for his quit was an incident on August 25, 2005 with his supervisor, Gerald Hoefer, Warehouse Manager and one of the employer's witnesses. That morning the employer initiated a policy that employees were to wear safety vests over their shirts. The employees were instructed that they had to wear the safety vest over a shirt at all times except when on break. The claimant put the safety vest on over his shirt, but later because the temperature was hot in the warehouse, the claimant took his shirt off and put the safety vest back on. Mr. Hoefer, after learning from another employee that the claimant was not wearing a shirt under his safety vest, approached the claimant at approximately 1:30 p.m. and asked the claimant if he had his shirt on under his safety vest. The claimant answered no. Mr. Hoefer told the claimant to put his shirt on immediately. The claimant became upset and angry and stated that he did not like the safety vest policy and took his vest off and threw it on the floor and said he was quitting and left. The claimant testified that Mr. Hoefer poked him in the stomach, but Mr. Hoefer denies this. The administrative law judge concludes that there is not a preponderance of the evidence that Mr. Hoefer actually poked the claimant in the stomach. The claimant also testified that Mr. Hoefer used profanity at him, but Mr. Hoefer again denied this. The administrative law judge concludes that there is not a preponderance of the evidence that Mr. Hoefer used any profanity at the claimant. Supporting Mr. Hoefer's testimony is that the claimant conceded that he had never had any problems before with Mr. Hoefer and Mr. Hoefer never raised his voice before and had never poked him before. The evidence establishes that the claimant quit because he did not like to wear the safety vest but leaving work rather than performing assigned work as instructed or because of dissatisfaction with the work environment is not good cause attributable to the employer. There was some evidence that the claimant had some kind of difficulty with Mr. Hoefer but leaving work voluntarily as a result of an inability to work with other employees or as a result of a personality conflict with the supervisor is also not good cause attributable to the employer. Finally, it appears that the claimant was reprimanded for not wearing a shirt under his safety vest, but leaving work voluntarily because of a reprimand is not good cause attributable to the employer. There is not a preponderance of the evidence that the claimant's working conditions were unsafe, unlawful, intolerable or detrimental or that he was subjected to a substantial change in his contract of hire. Finally, even the claimant concedes that he had never expressed any concerns to the employer about Mr. Hoefer nor had

he ever indicated or announced an intention to quit if problems with Mr. Hoefer were not addressed. The claimant did not give the employer any opportunity at all to address his concerns about Mr. Hoefer or the safety vest policy before his quit. Accordingly, the administrative law judge concludes that the claimant left his employment voluntarily without good cause attributable to the employer and, as a consequence, he is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until or unless he requalifies for such benefits.

DECISION:

The representative's decision of September 16, 2005, reference 01, is affirmed. The claimant, James D. Zook, is not entitled to receive unemployment insurance benefits, until or unless he requalifies for such benefits, because he left his employment voluntarily without good cause attributable to the employer.

dj/pjs