

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM A NEHLSSEN
Claimant

APPEAL NO: 10A-UI-06829-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KINSETH HOTEL CORPORATION
Employer

OC: 04/04/10
Claimant: Respondent (2/R)

Section 96.5 1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed a representative's April 27, 2010 decision (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive benefits. A telephone hearing was held on July 1, 2010. The claimant participated in the hearing. Larry Way, a representative with Employers Unity, represented the employer. Norm Grandback and Mike Moore testified on the employer's behalf. During the hearing, Employer Exhibits One through Three were offered and admitted as evidence. 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 benefits?

FINDINGS OF FACT:

The claimant started working for the employer in September 2002. The claimant worked in maintenance. Moore supervised him.

The claimant's job was not in jeopardy on April 2, 2010. On March 26, 2010, the claimant's arms were cut by some ceramic tiles. Co-workers had stacked the tiles so the edges protruded a bit from a shelf. After he received some cuts, the claimant left a note on Moore's desk that said, "Shop safety. Ah – What's that?" Moore did not know what the claimant was talking about. The claimant did not talk to Moore about this.

On April 1, 2010, the claimant saw these same tiles, seven of them, on the floor of the hallway next to the pool room. The claimant assumed co-workers set these tiles there so the claimant would get hurt. The claimant broke the tiles and left them in the hall. After the claimant broke the tiles, he passed by Grandback. Grandback was busy and even though the claimant told him he had broken the tiles, Grandback did not say anything because he had other things on his mind.

The next day, Moore gave the claimant a written warning for breaking or destroying the employer's property – seven tiles. (Employer Exhibit Two). Moore noticed the claimant was upset after he gave him the written warning. Moore did not realize the claimant was so upset that he would quit. On April 2, the claimant left the employer a resignation notice that he was quitting effective immediately. (Employer Exhibit One.) The claimant did not give the employer any reason for quitting. The claimant quit because he thought the employer was trying to get rid of him by having someone place tiles so the claimant would get cut or hurt. The claimant concluded management allowed a co-worker to set up a dangerous booby trap, the tiles, on April 1, 2010.

The claimant established a claim for benefits during the week of April 4, 2010. He has filed for and received benefits since April 4, 2010.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code section 96.5-1-a. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code section 96.6-2. The law presumes a claimant voluntarily leaves employment without good cause when he quits after being reprimanded. 871 IAC 24.25(28).

Although the tiles should not have been on the floor of a hallway, the claimant's assertion someone had set them up as a booby trap to hurt him is not supported by any facts. On March 28, the claimant eluded in the note that the employer was not practicing shop safety, but he did not report he had been cut by some tiles. The facts establish the claimant resigned only after the employer gave a written warning for breaking tiles the day before. The claimant's resignation note did not inform the employer why he was resigning. Since the claimant was upset after he received the warning and then resigned, a preponderance of the evidence establishes he quit because the employer reprimanded him for destroying tiles, the employer's property.

The claimant established personal reasons for quitting. He did not, however, establish that he quit for reasons that qualify him to receive benefits. The claimant is not qualified to receive benefits as of April 4, 2010. Since he has received benefits, the issue of overpayment or whether the claimant is eligible to receive a waiver of any overpayment will be remanded to the Claim Section to determine.

DECISION:

The representative's April 27, 2010 decision (reference 01) is reversed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of April 4, 2010. 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. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs