

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL MARTINEZ

Claimant

APPEAL NO. 14A-UI-02297-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ABSOLUTE CONCRETE CONSTRUCTION
INC**

Employer

OC: 02/09/14

Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 26, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on March 24, 2014. Claimant participated. Employer failed to respond to the hearing notice and did not participate. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on August 28, 2013. Claimant stopped coming to work due to harassment by his coworkers. Claimant was called names. The coworkers wanted claimant to quit. Claimant relied on the coworkers to pick him up for work. They stopped giving him a ride to work so as to get rid of him. Claimant did make complaints to the employer to no avail. Employer failed to take action after receiving the complaints.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of harassment by coworkers. This is a quit with good cause attributable to employer. The coworkers directly caused claimant to lose his job by not picking him up. This was an intentional act of harassment because they did not like claimant's work. This is good cause attributable to employer because claimant did file a complaint with employer that was not addressed. Claimant quit due to intolerable working conditions. Benefits allowed.

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(4) 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:

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

DECISION:

The decision of the representative dated February 26, 2014, reference 01, is reversed. Unemployment insurance benefits shall be allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs