

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFERY P KUEHL
Claimant

APPEAL NO. 08A-UI-00619-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

OC: 12/23/07 R: 04
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated January 14, 2008, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 4, 2008. The claimant participated. Participating on his behalf was his attorney, Mr. Robert Dekock. The employer participated by Eric Fern, Attorney at Law, and witnesses, Landon Ehlers and Steven Wheeler.

ISSUE:

The issues in this matter are whether the claimant quit for good cause attributable to the employer or whether the employer was discharged for misconduct in connection with his employment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from October 17, 2007 until December 27, 2007 when he voluntarily quit employment. Mr. Kuehl worked as a part-time yard attendant and was paid by the hour.

Mr. Kuehl left his employment with Menard, Inc. on December 27, 2007 following an incident where he believed he had been treated unfairly and had been publicly embarrassed by the supervisor on duty, Landon Ehlers. Mr. Kuehl, who is diabetic, requested to go to lunch at approximately 12:30 p.m. that day. The claimant was instructed by Mr. Ehlers to wait until there were more yard staff present. The claimant agreed, but attempted to take his lunch pail outdoors to quickly consume a portion of food because the claimant was having nausea due to his diabetes and needed food. The claimant was confronted by Mr. Ehlers who raised his voice at the claimant questioning the claimant's motives for an extended period. Upon finally being convinced of a need for Mr. Kuehl to take nourishment, Mr. Ehlers relented, telling the claimant that he could take his lunch break at that time. The claimant, who had become angry and embarrassed at the public display of anger in the presence of other workers and the comments

that were made, removed his company vest and badge and left the work area. Mr. Kuehl contacted his other supervisor by telephone from his vehicle to complain about Mr. Ehlers' actions. The claimant was instructed to cool off and to report the following day to discuss the matter. When the claimant reported to work the next day he was informed that he had been discharged for leaving work without authorization.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes based upon the evidence in the record that the claimant voluntarily quit his employment on the afternoon of December 27, 2007 after being publicly berated by the yard supervisor on duty in the presence of other employees. Mr. Kuehl on two previous occasions had experienced difficulty with Mr. Ehlers' unwillingness to accommodate the claimant's diabetic condition. On the day in question, the claimant requested a leave for lunch and when told by Mr. Ehlers that lunch would be delayed, the claimant accepted the decision but only wished to eat a few morsels of food to stave off nausea caused by his diabetes due to lack of food. The claimant attempted to take his lunch bucket into the yard area, an area where another employee with diabetes had regularly taken his lunch pail with the knowledge of the employer. When the claimant attempted to do so, he was publicly chastised and berated by Mr. Ehlers. Based upon the length of the questioning and the manner that it had occurred, the claimant was embarrassed and humiliated and demonstrated an overt act of quitting his job by removing his company badge and equipment and leaving them on a file top in the office.

Although Mr. Kuehl's intention was to relinquish his position with the company at that time, he may have, nevertheless, been wanting to reconsider his decision at a meeting scheduled for the next day by another supervisor who the claimant had contacted by telephone. When attempting to report for the meeting, however, the claimant was informed that the company considered that he had voluntarily quit his employment and had terminated him from company employment rolls.

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.

For the reasons stated herein, the administrative law judge concludes that the claimant left his employment because of intolerable or detrimental working conditions after being publicly chastised at length by the supervisor on duty for attempting to use a reasonable solution for a medical problem that he was having at the time.

DECISION:

The representative's decision dated January 14, 2008, reference 01, is hereby affirmed. The claimant voluntarily quit employment for reasons attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs