

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 06A-UI-04184-DWT  
OC: 03/26/06 R: 01  
Claimant: Appellant (4/R)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit  
871 IAC 24.27 - Voluntary Quit Part-Time Employment

STATEMENT OF THE CASE:

Robert R. Westbrook (claimant) appealed a representative's April 11, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of A I D Center (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 3, 2006. The claimant participated in the hearing with his attorney, Dennis McElwain. Donna Jensen, the chief financial officer, appeared on the employer's behalf. 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 unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on June 15, 2005. The employer hired the claimant to work part-time or 20 hours a week to do maintenance. The claimant's supervisor was Tasha Voloshen.

On December 14, 2005, the claimant had not immediately shoveled snow in the front of the employer's business. Jonette, the vice president, talked to the claimant about removing snow right away in the morning. Since the claimant was on his way out the door to shovel the snow, he became frustrated with Jonette's reprimand. After the claimant told Jonette she could remove the snow herself and pointed his finger at her, his supervisor told the claimant to go home. Voloshen immediately sent the claimant home because of his comment and conduct toward the vice-president. The claimant did not know Jonette's employment position.

On December 15, 2005, the claimant came to work and gave the employer the keys he possessed. Even though the employer planned to give the claimant a written warning for his conduct the day before, the employer had no plans to discharge the claimant. The claimant, however, told the employer that he could not work for an employer who verbally abused him and sent him home early. The claimant did not return to work and the employer did not ask the claimant to return to work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts establish the claimant voluntarily quit his employment on December 15, 2005. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer.

The law presumes a claimant quits employment without good cause when he leaves after being reprimanded. 871 IAC 24.25(28). The evidence indicates the employer reprimanded the claimant on December 14 for not shoveling snow when the claimant was just on his way outside to do this job. The claimant's remark and gesture of pointing his finger at the vice president was not necessary. In fact, it was inappropriate. The employer sent the claimant home after he worked just 10 to 15 minutes because of his comments and conduct that morning. The claimant ultimately quit his employment for reasons that would not qualify him to receive unemployment insurance benefits if this had been full-time employment.

When a claimant quits part-time employment without good cause, but has wage credits from other employers in his base period, he may be eligible to receive benefits if he is monetarily eligible based on wage credits from the other employers. 871 IAC 24.27. If the claimant is monetarily eligible to receive benefits based on wage credits from other employers, but not the employer, he is qualified to receive benefits as of March 26, 2006.

The issue of whether the claimant is monetarily eligible to receive benefits is remanded to the Claims Section to determine and issue a written decision.

DECISION:

The representative's April 11, 2006 decision (reference 01) is modified in the claimant's favor. The claimant voluntarily quit his employment without good cause attributable to the employer. Therefore, the employer's account will not be charged. Since the claimant quit a part-time job, he is qualified to receive benefits if he is monetarily eligible to receive benefits based on wage credits from other employers, but not the employer. The issue of whether the claimant is monetarily eligible to receive benefits if the wage credits he earned from the employer are not used, is remanded to the Claims Section to determine and issue a written decision. If the claimant is monetarily eligible, he is qualified to receive benefits as of March 26, 2006, provided he meets all other eligibility requirements.

dlw/kkf