BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319

MARTIN L NIKKEL Claimant and **VERMEER MFG CO INC** Employer	:	**HEARING NUMBER:** 17BUI-07827 **EMPLOYMENT APPEAL BOARD DECISION**

N O T I C E

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

In addition to the Reasoning and Conclusions of Law of the Administrative Law Judge the Board adds the following analysis.

First, the Claimant had the burden of proving good cause for his quit, but was not required to prove that the job conditions were *actually* unsafe. The test is an objective one, and the Claimant need only prove that a reasonable person would believe the conditions to be unsafe. *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993)(" key question is what a reasonable person would have believed under the circumstances"); *see also Aalbers v. Iowa Department of Job Service,* 431 N.W.2d 330, 337 (Iowa 1988)(setting out the objective standard that *O'Brien* adopted). This the Claimant has not done. For example, while Claimant asserts a worker was injured, the worker in question denies this. This worker's experience thus does not tend to support a finding of a good faith reasonable belief that conditions were unsafe. Reviewing the evidence in its totality, we cannot find by a preponderance that the Claimant has shown his quit was for good cause attributable to the Employer under the applicable standard.

As far as the metrics it appears that the Claimant satisfied them and so did not prove a substantial change in the contract of hire. 871 IAC 24.26(1). Setting the metrics at an average is not a detrimental working condition. *See Wolfe v. Iowa Unemployment Comp. Comm'n,* 232 Iowa 1254, 1257, 7 N.W.2d 799 (Iowa 1943)("although [Wolfe]'s work was hard, she was required to do no more than the average chambermaid throughout the country, and other chambermaids in said hotel"). The issue of whether safety problems were created by the metrics we resolve as set out above and in the decision of the Administrative Law Judge.

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Kim D. Schmett

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Ashley R. Koopmans

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James M. Strohman

RRA/fnv