

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRAIG R BOWMAN
Claimant

APPEAL NO. 09A-UI-09250-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEERY BROTHERS INC
Employer

OC: 06/15/08
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Craig Bowman (claimant) appealed a representative's June 19, 2009 decision (reference 03) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Deery Brothers (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 14, 2009. The claimant participated personally. The employer was represented by Richard Clinesmith, Hearings Representative, and participated by Gerald Zick, Controller; Brad Deery, President; and Michael Britt, Detail Associate.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on January 2, 2009, as a full-time parts department employee. On May 22, 2009, at approximately 3:30 p.m. the employer wanted six employees to help clean out a building in Illinois for remodeling. The employer told some employees what was happening but not the claimant. The employer told the claimant to get into a vehicle because he was "going for a ride". In the vehicle the claimant asked the employer where he was taking him. The employer said they were going for a "bonfire and party".

The employer took the claimant to a building that had been flooded in Gulfport, Illinois. While the claimant was working he ruined his \$150.00 shoes, cut his \$60.00 pants, pinched and cut his arm. The employer did not provide the claimant with gloves. The claimant did not know the other six men very well. At around 4:15 p.m. the employer drove away. A co-worker asked the claimant how he was going to get home because there was no room for him in the co-worker's vehicle. The claimant was upset and called his wife to pick him up. At the time his wife picked him up, the employer had been gone for 20 minutes. No one told the claimant that the employer left to get water for the employees.

The claimant's wife took the claimant back to his usual work location where his car was parked. He turned in the employer's possessions and quit work. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

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.

The law presumes a claimant has left employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that he intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant was injured and suffered property damage performing work for the employer. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's June 19, 2009 decision (reference 03) is reversed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs