

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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MIDWEST NORTH IOWA  
JANITORIAL SERVICES INC  
PO BOX 925  
MASON CITY IA 50402-0925

Appeal Number: 04A-UI-12631-ET  
OC: 10-31-04 R: 02  
Claimant: Appellant (1)

**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 Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 18, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held before Administrative Law Judge Julie Elder on December 16, 2004. The claimant participated in the hearing with Phyllis Endriss. Dawne Kramer, Officer Manager, and Mary Ellen Andolino, President, participated in the hearing on behalf of 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 employed as a full-time janitor for Midwest North Iowa

Janitorial Services, Inc. from July 15, 2002 to October 19, 2004. The employer had been trying to reach the claimant since August 26, 2004, to talk to him about complaints he was making to a co-worker about his job. The employer left several messages but the claimant did not return any of its calls. On October 22, 2004, a client complained that it had not had janitorial service for two days. The claimant was assigned to that account and the employer tried to reach the claimant but he would not return its calls and the employer determined the claimant voluntarily quit his job October 19, 2004. The claimant testified he was aware the employer was trying to reach him but he did not want to speak to the employer because he did not think any action would be taken regarding his complaints and he "didn't have time" to call between August 26 and October 22, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without 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.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated his intent to quit and acted to carry it out when he failed to call or report to work and would not return the employer's calls as requested. 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). However, in order to show good cause for leaving employment based on intolerable or detrimental working conditions, an employee is required to take the reasonable step of informing the employer about the conditions the employee believes are intolerable or detrimental and that he intends to quit unless the conditions are corrected. The employer must be allowed the chance to correct those conditions before the employee takes the drastic step of quitting employment. In this case, the claimant did not talk to the employer about any work-related problems and did not give the employer notice that he planned to quit if his concerns were not addressed. Inasmuch as the claimant did not give the

employer an opportunity to resolve his complaints prior to leaving employment, the separation was without good cause attributable to the employer. Benefits are denied.

DECISION:

The November 18, 2004, reference 01, decision is affirmed. The claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

je/b