

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BALLARD JOHNSON
Claimant

APPEAL NO. 08A-UI-02403-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LOWE'S HOME CENTERS INC
Employer

**OC: 02/10/08 R: 03
Claimant: Appellant (5)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Ballard Johnson (claimant) appealed an unemployment insurance decision dated March 6, 2008, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Lowe's Home Centers, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 26, 2008. The claimant participated in the hearing. The employer participated through Sarah Harding, Human Resources Manager. 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:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time sales specialist from July 13, 2007 through November 1, 2007, when he voluntarily quit due to a non-work-related medical injury. He had an "old injury" to his knee when he started working for the employer and began having problems with it immediately. The claimant said his knee was aggravated because he was working on concrete floors and went to the doctor on July 26, 2007. His last day of work was October 15, 2007, and he had knee surgery on October 16, 2007. The claimant voluntarily quit his employment on November 1, 2007, when he was recuperating, even though his treating physician had not directed him to quit his employment. He wanted to find a job that was less physically demanding but did not have another job at the time he quit.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant left his employment on November 1, 2007 to seek other employment.

871 IAC 24.25(3) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(3) The claimant left to seek other employment but did not secure employment.

The claimant told the employer he quit to find other employment but had not found other employment at the time he left. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated March 6, 2008, reference 01, is modified with no effect. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw