

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

SCOTT LEEK
2509 SHERIDAN AVE
DES MOINES IA 50310

JOHNSON SPECIALTY SALES LTD
PO BOX 35035
DES MOINES IA 50315

Appeal Number: 04A-UI-06072-HT
OC: 05/02/04 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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Quit

STATEMENT OF THE CASE:

The claimant, Scott Leek, filed an appeal from a decision dated May 21, 2004, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on June 23, 2004. The claimant participated on his own behalf and was represented by Ron Kuntz. The employer, Johnson Specialty Sales Ltd. (Specialty Sales), participated by Vice President Richard Johnson.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Scott Leek was employed by Specialty Sales from February 1995 until May 4, 2004. He was a full-time sales person.

Throughout the course of his employment, the claimant had been counseled about his performance. Vice President Richard Johnson spends six months of every year at the Florida office. During his absence the claimant would not work on projects and other work assigned to him. When Mr. Johnson returned this year he had another discussion with Mr. Leek about these problems on May 4, 2004. He stated he felt the claimant was not willing to put in the necessary hours to get the work done. Mr. Leek then said he "didn't want to take this shit anymore" and began cleaning out his desk. Mr. Johnson asked for the office keys, which were given to him.

The claimant had been diagnosed with depression in 2002, which was only partly work-related. He self-diagnosed it was due to the "harassment" he endured at work, though he did not specify what he considered to be harassment. The doctor had recommended he look for another job but did not tell him to quit, nor did the claimant ever receive any specific restrictions on his activities. He never told the employer he would quit unless certain concerns were addressed.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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 24.25(21) provides:

- (21) The claimant left because of dissatisfaction with the work environment.

It is apparent the claimant was unhappy working for Specialty Sales. However, he was not advised by his doctor to quit, nor were any restrictions placed on his work duties by the doctor. He did not advise the employer he would quit unless certain accommodations were made as required by Suluki v. EAB, 503 N.W.2d 402 (Iowa 1993) and Swanson v. EAB, 554 N.W.2d 294 (Iowa App. 1996). The record establishes the claimant quit without good cause attributable to the employer and he is disqualified.

DECISION:

The representative's decision of May 21, 2004, reference 01, is affirmed. Scott Leek is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/b