

**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**

**SHAWN M JENSEN  
1944 – 23<sup>RD</sup> ST  
MOLINE IL 61265**

**BLACKHAWK FLEET INC  
2117 STATE ST STE G50  
BETTENDORF IA 52722**

**Appeal Number: 04A-UI-03858-H2  
OC 12-14-03 R 04  
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.

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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 April 2, 2004, reference 02, decision that denied benefits. After due notice was issued, a hearing was held in Davenport, Iowa on June 10, 2004. The claimant did participate. The employer did participate through Jerry McCray, Manager and Dan Sorensen, Manager Vessel Operations.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a captain full time beginning March 12, 1998 through March 18, 2004 when he voluntarily quit his job. The claimant and the employer were having a disagreement about how much the claimant was being paid prior to the claimant walking off the

job. The claimant went to Mr. McCray on the morning of March 18, 2004 and demanded a pay raise because he believed that he should be paid more as a captain than he was as a deck hand. The claimant was told that beginning April 1, 2004 he was going to be granted a ten-dollar per day raise. The claimant told Mr. McCray that he did not believe that was enough pay and that he wanted more. The claimant then said he no longer wanted to work as a captain but as a deck hand only. Mr. McCray told him that if that were so, then other employees would be given seniority over him. The claimant was angry that he was not going to be given a pay raise higher than ten-dollars per day and that other employees would be given seniority over him so he gathered up his gear, told another coworker, Mr. Sorenson that he "couldn't take it anymore," and left the boat. The claimant admits that he was never promised a pay raise by anyone, including Mr. McCray when he was hired as a captain. The claimant knew the rate of pay when he was hired to be captain.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his 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 24.25(13) 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 section 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 section 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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

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 (amended 1998).

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 admits that he was never promised a pay raise when he was hired to be captain. When he confronted Mr. McCray about a pay raise on March 18, 2004 he was told that beginning April 1, 2004 he would be given a ten-dollar per day raise. The claimant was not satisfied with the raise and quit his employment as is evidenced by his comment to

Mr. Sorensen that he could not take it anymore. His leaving was without good cause attributable to the employer. Benefits are denied.

DECISION:

The April 2, 2004, reference 02, decision is affirmed. The claimant voluntarily left his 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.

tkh/kjf