

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

JOSHUA E GORDON
709 WEST AVE
WEBSTER CITY IA 50595

KATHRYN GROTH-BERNARD
ALL SEASON GUTTER
115 BICENTENNIAL CT
PO BOX 501
WEBSTER CITY IA 50595

Appeal Number: 05A-UI-12276-LT
OC: 04-17-05 R: 01
Claimant: Respondent (2)

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)

Iowa Code § 96.5(1) – Voluntary Leaving
Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

Employer filed a timely appeal from the November 23, 2005, reference 04, decision that allowed benefits. After due notice was issued, a hearing was held on December 21, 2005. Claimant did not participate. Employer did participate through John Bernard.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time supervisor and installer from August 2005 through October 11, 2005, when he quit. His last day of work was October 8. Claimant called and reported his daughter was ill and he would be in later on October 10 but he did not report or communicate with employer. Employer attempted to call him with no success until he went to claimant's

house at 11:00 a.m. on October 11 and found him still in bed. Bernard asked him what was going on and claimant had no response and did not refer to any additional problems with his daughter. Bernard asked him, "Are you done? Because if you are, the business needs to keep going and someone needs to answer calls on the cell phone." At that point employer was open to the idea of retaining claimant in employment, but claimant said he would go get the phone and charger and told Bernard the paperwork was in the truck at the shop.

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.

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).

Since claimant did not report for the remainder of the day as he said he would, failed to further communicate with employer, and did not say he wished to remain employed but retrieved the cell phone without being asked, the separation is considered job abandonment. Benefits are denied.

DECISION:

The November 23, 2005, reference 04, decision is reversed. 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. Inasmuch as no benefits were claimed or paid, no overpayment applies.

dml/kjw