

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD L WEBER
Claimant

APPEAL NO: 06A-UI-08376-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NUTRI-JECT SYSTEMS INC
Employer

**OC: 07/16/06 R: 03
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Richard L. Weber (claimant) appealed a representative's August 8, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Nutri-Ject Systems, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 6, 2006. The claimant participated in the hearing. David Konieczny appeared on the employer's behalf and presented testimony from one other witness, Bruce Jensen. 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:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on October 6, 2003. He worked full time as an equipment operator in the employer's bio-solid management service. His last day of work was November 18, 2005. He gave a verbal four-week notice on October 24, 2005 that November 18 would be his last day of work. His reason for quitting was that he did not like the travel and weekend work expected in the position with the employer.

The claimant was part of a crew that would travel primarily in the Iowa, Missouri, and Kansas region. Work was typically 12 hours per day, from about 7:00 a.m. to 7:00 p.m., and could be up to seven days per week during the busy spring and fall seasons. The crew was brought back home for a weekend every other week. The claimant felt he was spending too much time away from family and friends and was unable to participate in leisure activities he enjoyed, such as hunting and fishing. As a result, he decided to quit in order to find other employment that would allow him to spend more time with family and friends and participating in leisure activities. However, he did not find other employment until he began with a new employer in late June 2006; he was laid off from that employment in mid-July, 2006, prior to earning sufficient wages to requalify him for benefits.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for 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 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving to seek other employment where other employment had not been secured before quitting is not good cause. 871 IAC 24.25(3). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). Leaving because of a dislike of the work schedule, where there has been no substantial change in the work schedule, is not good cause. 871 IAC 24.25(18). While the claimant's work situation was perhaps not ideal for him due to personal reasons, he has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's August 8, 2006 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of November 18, 2005, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw