

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT S MULGREW
Claimant

APPEAL NO. 10A-UI-16363-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TPI IOWA
Employer

OC: 10/24/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Scott S. Mulgrew filed a timely appeal from an unemployment insurance decision dated November 22, 2010, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held January 21, 2011 with Mr. Mulgrew participating. His former employer, TPI Iowa, did not respond to the notice by providing the name and telephone number of a witness.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Scott S. Mulgrew was employed by TPI Iowa from June 8, 2009 until he resigned October 29, 2010. He last worked full-time as assistant team leader. He resigned because the fiberglass used in the manufacturing process made him itch. His physician had not recommended that he resign. He had not spoken to the employer about the problem with the fiberglass.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

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 proof. See Iowa Code section 96.6-2. Under some circumstances, an individual may receive unemployment insurance benefits if the individual leaves work because of a medical condition caused or aggravated by working conditions. See Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993). Before benefits can be allowed in such a situation, however, the evidence must show that before resigning the claimant brought the situation to the attention of the employer, seeking an accommodation, and gave the employer a reasonable amount of time to effect such an accommodation. The evidence in this record establishes that Mr. Mulgrew did not bring the situation to the attention of the employer. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated November 22, 2010, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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