

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEVIN J GIBSON

Claimant

APPEAL NO. 09A-UI-15600-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A-LERT

Employer

Original Claim: 09/13/09

Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Kevin Gibson, filed an appeal from a decision dated October 5, 2009, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on November 18, 2009. The claimant participated on his own behalf. The employer, A-Lert, did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Kevin Gibson was employed by A-Lert from January 20 until September 4, 2009 as a full-time welder. He quit on September 4, 2009, because the day before he felt his safety had been compromised. Mr. Gibson and another employee were working on top of a large, 80-foot tank for three hours. The man lift boom used to take him up to the top of the tank had been moved after about 30 minutes to be used on another job.

There were other workers in the vicinity who could have summoned the boom truck if needed. Mr. Gibson mentioned it to the safety director later that day but did not lodge a formal complaint with anyone. Other necessary personal safety equipment had been provided as required.

REASONING AND CONCLUSIONS OF LAW:

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 felt his safety had been compromised by the removal of the man-lift boom after he was on top of the tank. There were other employees in the area who could have summoned help had there been an emergency of any type. The claimant did not notify the human resources department of his concerns, nor did he contact OSHA. He only mentioned it briefly to the safety director.

The claimant did not provide any evidence of whether or not this was a violation of any established safety policy. It is apparent he was uncomfortable, but he did have personal safety equipment and help was available from other employees on the ground if any safety problems had come up.

The record does not establish the claimant had good cause attributable to the employer for quitting and he is disqualified.

DECISION:

The representative's decision of October 5, 2009, reference 01, is affirmed. Kevin Gibson is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw