

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

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Appeal Number: 04A-UI-06245-S2T
OC: 08/31/03 R: 01
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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Kelly Davis (claimant) appealed a representative's May 28, 2004 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Featherlite Manufacturing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 19, 2004. The claimant was represented by Matthew Stierman, Attorney at Law, and participated personally. The employer participated by Jeff Campbell, General Manager; Matthew Scott, Foreman; Connie Troxel, Quality Control Person; Douglas Frize, Paint Mixer; and Donald Kalkas, Supervisor in Caulking. The claimant offered one exhibit which was marked for identification as Exhibit A. Exhibit A was received into evidence. The employer

offered one exhibit which was marked for identification as Exhibit One. Exhibit One was received into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 27, 1998, as a full-time chipper. The claimant received a copy of the employer's handbook and signed for its receipt on May 28, 1998. On May 7, 2004, the claimant was upset with a co-worker who asked him to perform a job. The claimant told the co-worker he had had it with the job and he was out of here. He told the co-worker to get off his face and called her a "fucking bitch". The claimant also threw down his grinder and went to his foreman. The claimant told the foreman he was leaving. He then left work.

The foreman assumed the claimant had quit work and reported such to the employer. On May 10, 2004, the claimant appeared for work before the start of his shift and asked if he still had a job. The foreman told the claimant he did not. The claimant assumed he had been terminated and did not utilize the employer's open-door policy. He left without investigating the reason for his separation. The employer had a history of hiring back an employee who walked off the job.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes he did.

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.

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's intention to voluntarily leave work was evidenced by his words and actions. He told the employer that he was leaving and walked out. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's May 28, 2004 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

bas/b