

**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**

**Appeal Number: 06A-UI-06373-LT
OC: 12-18-05 R: 02
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.

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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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the June 13, 2006, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on July 11, 2006. Claimant participated and was represented by Jennifer Gumbel, Student Attorney/Legal Intern, who was supervised by Ron Waggoner, Attorney at Law. Employer participated through Mike Secory and Daryl Ouverson. The issue is whether claimant quit the employment without good cause attributable to the employer. Claimant's Exhibit A was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time laborer from October 2005 through May 25, 2006, when he quit. Employer told claimant when he was hired it would pay for a single health insurance policy

totaling \$48.00 per week or claimant could opt for the cash instead. Claimant elected the health insurance coverage and was laid off between December 23, 2005 and February 13, 2006, during which employer paid the insurance premiums. The premium increased substantially on April 1, 2006, and employer passed the increase along to its employees who wished to carry the insurance and began deducting \$30.31 each week. Claimant confronted owner Mike Secory, who told him he could drop his coverage at the end of April and get the \$48.00 per week in cash instead of the contribution towards the health insurance. Claimant said he could not cancel it, because of his foot problem, so employer retained the coverage for May and continued to deduct the additional premium each week. Claimant did not raise the issue with Secory again until May 25, after his supervisor Daryl Ouverson reprimanded him about an unrelated issue and he quit.

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.

871 IAC 24.25(28) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445 (Iowa 1993). Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

While claimant gave employer notice of his dissatisfaction with the premium increase being deducted from his wages, employer treated all employees the same with respect to the premium increase and again offered claimant the opportunity to cancel the policy and take the original offer of the cash equivalent. Even if the deduction of the premium increase did amount to a change in the contract of hire, since claimant declined to cancel the policy by the end of April,

he is considered to have acquiesced to the premium increase deduction from his payroll check each week through May 25, when he quit after having been reprimanded. Thus, his decision to leave the employment after being reprimanded, since the insurance issue was stale by this point, was not a good cause reason for leaving the employment. Benefits are denied.

DECISION:

The June 13, 2006, reference 02, decision is affirmed. 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.

dml/kjw