

**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**

**DAVID J REED
509 LAKESHORE DR
PO BOX 4642
LAKESIDE IA 50588-4642**

**VTI ARCHITECTURAL PRODUCTS INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283**

**Appeal Number: 04A-UI-12255-AT
OC: 10-17-04 R: 01
Claimant: Respondent (2)**

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 Quitting
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

VTI Architectural Products, Inc. filed a timely appeal from an unemployment insurance decision dated November 1, 2004, reference 01, which allowed benefits to David J. Reed. After due notice was issued, a telephone hearing was held December 14, 2004 with Mr. Reed participating. Human Resources Administrator Kathy Sindt and Production Manager Al Piene participated for the employer. Exhibit One was admitted into evidence.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: David J. Reed was employed by VTI Architectural Products, Inc. from July 29, 1994 until he resigned October 11, 2004. He worked as a machine operator. On October 11, 2004 Production Manager Al Piene was reprimanding Mr. Reed for low productivity. Mr. Reed became angry, swearing at Mr. Piene and throwing a pencil or a marker in his direction. As Mr. Piene prepared to send Mr. Reed home for the day, Mr. Reed resigned. Work was available for Mr. Reed had he returned to employment on the following morning.

Mr. Reed has received unemployment insurance benefits since filing a claim effective October 17, 2004.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Reed's separation was a disqualifying event. It does.

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.

Although the initial decision indicated that the separation was a discharge, Mr. Reed testified that Mr. Piene did not say anything about sending him home permanently. Mr. Reed acknowledged that he lost his temper after being sent home for the day and resigned. An individual who resigns after being reprimanded leaves work without good cause attributable to the employer. See 871 IAC 24.32(28). Evidence also indicates that Mr. Reed left work because of the personality conflict with Mr. Piene. One who resigns because of a personality conflict with a supervisor leaves work without good cause attributable to the employer according to 871 IAC 24.25(22). The administrative law judge concludes that the employment ended under circumstances contemplated by the rules cited above. Benefits must be withheld.

Mr. Reed has received unemployment insurance benefits to which he is not entitled. They must be recovered in accordance with the provisions of Iowa Code section 96.3-7.

DECISION:

The unemployment insurance decision dated November 1, 2004, reference 01, is reversed. 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. He has been overpaid by \$687.00.

tjc/tjc