

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

ROBERT S POLZIN  
2210 YOUNGBLOOD AVE  
DOWS IA 50071

IOWA AG LLC  
2675 HWY 69  
GAIT IA 50101

Appeal Number: 05A-UI-02292-LT  
OC: 01-30-05 R: 01  
Claimant: Appellant (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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Iowa Code §96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the February 24, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 22, 2005. Claimant did participate. Employer did participate through Heath Blau.

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 through January 28, 2005 when he quit. On June 3, 2004 claimant's salary was reduced from \$876.00 per week to \$500.00 per week after he was injured at work by cement powder in his lungs, became sick and was off work for six days without pay. He was not told the arrangement would be permanent. When he returned to work, he was

placed in another job but was still required to help out upon demand at the cement plant without the additional compensation.

In October 2004 claimant became ill from E. coli bacteria while hauling chickens, was in the hospital for four days, and was off work for another two days without pay. An employee who had been helping claimant load and unload trucks quit helping claimant and worked on other duties. Claimant confronted Heath Blau repeatedly about increasing his salary back to the June 2004 level and Blau consulted with Peter DeCoster, but the issue was dropped. After realizing employer would not reinstate his pay or provide the assistance he lost, claimant finally gave his two weeks' notice of resignation.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment with 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 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

In general, a substantial pay reduction or 25 to 35 percent reduction of working hours creates good cause attributable to the employer for a resignation. Dehmel v. EAB, 433 N.W.2d 700 (Iowa 1988). Claimant also gave employer sufficient notice of his continued concerns about the issues that led him to quit and met the requirements of Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

Inasmuch as the claimant would suffer a continuing indefinite reduction in wages and loss of loading assistance, the change of the original terms of hire is considered substantial. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

The claimant's collateral issues of disputed wages must be addressed with Iowa Workforce Development Division of Labor and the matter of the work injuries and unpaid medical absence is handled by Iowa Workforce Development Division of Workers' Compensation.

DECISION:

The February 24, 2005, reference 01, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

dml/kjf