

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

LEWIS R WORDEN  
204 SUNSET DR  
NEW LONDON IA 52645

THE WATERS EDGE COMPANY INC  
PO BOX 1156  
BURLINGTON IA 52601

Appeal Number: 06A-UI-03706-HT  
OC: 12/04/05 R: 04  
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, 4<sup>th</sup> 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) – Quit

STATEMENT OF THE CASE:

The claimant, Lewis Worden, filed an appeal from a decision dated March 23, 2006, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 20, 2006. The claimant participated on his own behalf. The employer, Waters Edge, did not provide a telephone number where a representative could be contacted and did not participate.

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: Lewis Worden was employed by Waters Edge from January 2 until March 5, 2006. He was the full-time general manager.

At the beginning of his employment, Mr. Worden was given a list of duties which he accepted. However, he learned he was to have more "hands on" work with the equipment than he had anticipated. One item included the high pressure waterjet used for cutting material. He would load and unload some of the material.

Approximately three weeks after beginning his employment, the claimant was told to order medical identification cards for employees working on the waterjet cutter. They arrived within a few days and Mr. Worden discovered that they are to be presented in the event anyone is injured while working on that equipment. It advises medical personnel that the water pressure may be in excess of 92,000 psi and that unusual infections may occur. Bacterial swabs and blood cultures were recommended and the local poison control center should be contacted for additional treatment information.

The claimant was concerned because he has non-Hodgkin's lymphoma, which is in remission. His treatment for this condition had weakened his immune system and he was afraid he might contract some infection if he continued to have to have a "hands on" experience with this equipment. However, he did not notify the employer of his concerns, just continued as before and expected to eventually resume more managerial duties in the future.

On March 5, 2006, he submitted a resignation via e-mail to the owners of the company, citing "personal reasons" for his decision. There was no particular precipitating event which caused him to quit on that day and he did not reveal his true concerns until the fact-finding interview with Iowa Workforce Development.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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 quit because of his concerns that dealing with the equipment might cause him to contract an infection his system would have difficulty overcoming. This is a legitimate concern under the circumstances. However, Suluki v. EAB, 503 N.W.2d 402 (Iowa 1993) and Cobb v. EAB, 506 N.W.2d 445 (Iowa 1993), both require employees to notify the employer of any work-related health concerns and request accommodation or modification of work duties. Only if the employer does not promptly and appropriately address those concerns would a quit be with good cause attributable to the employer.

Mr. Worden kept his concerns private and continued to work as before without ever telling the employer of his situation. He did not request that he not be involved with the operation of the equipment, which was potentially hazardous to his health due to his previous medical issues. Without proper notice to the employer of this medical situation, the claimant's resignation cannot be considered to be with good cause attributable to the employer. He is disqualified.

DECISION:

The representative's decision of March 23, 2006, reference 01, is affirmed. Lewis Worden is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/kkf