

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

PETER D BORMANN
Claimant

APPEAL NO. 08A-UI-00328-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BECKER CONSTRUCTION CO INC
Employer

OC: 12/09/07 R: 02
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 2, 2008, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 28, 2008. Claimant participated. Employer failed to respond to the hearing notice and did not participate. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on December 3, 2007. Claimant went off work on a voluntary leave of absence October 1, 2007. Claimant was to return to work November 2007. Claimant reported back to work in November and no work was available. Claimant again reported back on December 3, 2007 and was told that he was done. Claimant over the past 14 years had worked intermittently for this employer so that he could farm. Employer had worked with claimant in the past to accommodate the leaves of absence. Employer wanted claimant to go full time with no leaves granted. Employer refused to offer recall because claimant refused full-time work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because employer refused to offer work after returning from a leave of absence. This is a layoff. Employer had agreed to the leave of absence. Upon returning from the leave no work was available. Benefits allowed.

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.

DECISION:

The decision of the representative dated January 2, 2008, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs