

**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 A JONES
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FERTILE IA 50434**

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PO BOX 152
FOREST CITY IA 50436-0152**

**Appeal Number: 05A-UI-02792-H2T
OC: 07-04-04 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.

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 Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 14, 2005, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on April 4, 2005. The claimant did participate. The employer did participate through Al Divan, Supervisor in the Material Handling Department (representative) Gary McCarthy, Personnel Supervisor and Todd Jass, Production Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a production assembler fabricator full time beginning April 19, 2004 through February 15, 2005 when he was voluntarily quit. The claimant was assigned to work in the appliance area to open boxes and take the appliances out of the box and to place them on

the shelf. The claimant admits he had no work restrictions at the time the task was assigned to him. There is no medical evidence to support the claimant's contention that he was physically unable to perform the job duties assigned to him. The claimant's treating physician would not give him work restrictions despite the claimant's requesting him to do so. The claimant did not want to do anything other than drive a forklift and was unhappy that he was being required to do so. When he was hired the claimant was told that other job duties could or would be assigned to him to meet the employer's business needs. Continued work was available for the claimant had he not 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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2 (amended 1998). The question of whether the refusal to perform a specific task constitutes misconduct must be determined by evaluating both the reasonableness of the employer's request in light of all circumstances and the employee's reason for noncompliance. Endicott v. IDJS, 367 N.W.2d 300 (Iowa App. 1985). The employer has the right to allocate its personnel in accordance with its needs and available resources. The claimant had no work restrictions that prevented him from performing the job the employer required of him. No medical evidence establishes that the claimant was physically unable to perform the job required of him. When hired the claimant was told that he may be assigned to perform other duties by his Supervisor or other manager. The claimant was asked to go to the appliance area to unpack appliances for approximately two hours. The employer was short handed and needed to have the appliances unpacked. The claimant told Mr. Divan that he thought the assignment was "bullshit" and he walked off the job and out of the plant. The claimant did not want to work in the appliance area, so he quit by walking off the job. It was a normal business practice for the employer to reassign employees to perform duties that need to be completed. Instead of completing the required job duties, the claimant walked off

the job. The claimant admits he had no work restrictions that prevented him from performing the work required of him on February 15, 2005. The claimant's leaving was without good cause attributable to the employer. Benefits are denied.

DECISION:

The March 14, 2005, reference 03, 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.

tkh/pjs