

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KENRIC N BROWN**  
Claimant

**APPEAL NO: 07O-UI-06110-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEEF PRODUCTS INC**  
Employer

**OC: 01/07/07 R: 03  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Kenric N. Brown (claimant) appealed a representative's April 12, 2007 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Beef Products, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 5, 2007. The claimant participated in the hearing. Rick Wood appeared on the employer's behalf and presented testimony from one other witness, Charlene Schuman. This appeal was consolidated for hearing with one related appeal, 07O-UI-06111-DT. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started working for the employer on February 6, 2007. He worked full time as an equipment operator on the third shift (11:00 p.m. to 7:00 a.m.) in the employer's Waterloo, Iowa beef processing facility. His last day of work was the shift that began at 11:00 p.m. on February 11, 2007. He left the facility at 12:09 a.m. February 12, an hour and nine minutes into the shift.

The claimant's grandmother, who was out of state, had a stroke, and the claimant had discussed with his supervisor that as a result he would need to be off work for a period of time. During his last shift, he received some (incorrect) word from another family member that the grandmother was more seriously ill, so he told the supervisor he needed to leave immediately; he believed he was going to drive his parents to where his grandmother lived out of state. The claimant then learned the situation was not so critical, and did not leave Iowa.

He asserted that he then decided not to return to the employer at all because when he awoke the next day he suffered from burns to his throat due to inhaling ammonia or other gas in the facility. On the evening of February 12 he called the employer and reported he would not be

returning for work, but did not specify a reason. He next came into the employer's plant on February 16 and completed an exit document on which he indicated he was quitting for "personal" reasons. He did not make mention of any health issue at that time or provide any medical evidence of any health problems.

**REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer.

Iowa Code § 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

871 IAC 24.26(6)b 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:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

The claimant has not presented competent evidence showing adequate health reasons to justify his quitting. Even accepting the claimant's verbal testimony as to the injury, before quitting he did not inform the employer of the work-related health problem and inform the employer that he intended to quit unless the problem was corrected or reasonably accommodated. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied his burden. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

**DECISION:**

The representative's April 12, 2007 decision (reference 02) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of February 12, 2007, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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