

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

MICHAEL L BREITBACH  
205 SUNSET LN  
HIAWATHA IA 52233 1246

CEI EQUIPMENT COMPANY INC  
PO BOX 8090  
CEDAR RAPIDS IA 52408

Appeal Number: 06A-UI-05337-DW  
OC: 04/23/06 R: 03  
Claimant: Appellant (5)

**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 – Voluntary Quit

STATEMENT OF THE CASE:

Michael L. Breitbach (claimant) appealed a representative's May 16, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of CEI Equipment Company, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, an in-person hearing was held in Cedar Rapids on July 19, 2006. The claimant did not appear for the hearing. Karen Gaddis and K.C. Swearingen, the claimant's former supervisor, appeared on the employer's behalf. 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 his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for disqualifying reasons?

FINDINGS OF FACT:

The claimant started working for the employer on June 5, 2005. The claimant worked as a full-time mechanic. At the time of hire, the claimant received a copy of the employer's attendance policy. The policy informed employees their employment would be terminated if the employee did not call or report to work for three consecutive days.

The claimant worked as scheduled on April 19, 2006. The claimant was scheduled to work on April 20, 21, 22 and 24, 2006. He did not report to work or contact the employer any of these days. On April 26, the claimant went to work and told Swearingen he needed a change and had accepted a job with an insulation company that paid him more money. The employer understood the claimant quit his job because he accepted other employment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts indicate the claimant quit his employment on April 26, 2006. Since the claimant did not participate at the hearing, the evidence does not indicate whether the claimant had actually accepted other employment as of April 26, 2006. As a result, the evidence does not establish that the claimant quit for reasons that qualify him to receive unemployment insurance benefits or that the claimant meets the requirements of Iowa Code § 96.5-1-a. Therefore, the claimant is not qualified to receive unemployment insurance benefits as of April 23, 2006.

DECISION:

The representative's May 16, 2006 decision (reference 01) is modified, but the modification has no legal consequence. The employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment for reasons that do not establish he is qualified to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of April 23, 2006. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/kjw