

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

LYLE G COPPLE
2626 PROSPECT ST
SIOUX CITY IA 51104

ADVANCE BRANDS LLC
ATTN BECKY WESTER
101 – 14TH ST SE WAY
ORANGE CITY IA 51041

Appeal Number: 06A-UI-00125-JTT
OC: 12/04/05 R: 01
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 Quit
871 IAC 24.25(16) – Separations Due to Incarceration

STATEMENT OF THE CASE:

Claimant Lyle Copple filed a timely appeal from the December 30, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 19, 2005. Mr. Copple participated. Human Resources Assistant Manager Becky Wester represented the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Lyle Copple was employed by Advance Brands as a full-time production worker from January 2, 2003 until December 8, 2005, when the employer terminated the employment. Mr. Copple's regular scheduled hours were 7:53 a.m. to 4:53 p.m., Monday through Friday, with occasional

Saturday work. Mr. Copple's immediate supervisor was Brian Konz. Mr. Copple last appeared and worked a shift on November 12, 2005. On or about November 12, 2005, Mr. Copple was arrested and incarcerated. Mr. Copple continued to be incarcerated for at least 23 days. Mr. Copple and/or his spouse notified Mr. Konz of the incarceration. Pursuant to the employer's written no-fault attendance policy, the employer notified Mr. Copple that his employment would continue until Mr. Copple exhausted his accrued attendance points. Mr. Copple exhausted his attendance points on December 8, 2005. Mr. Copple did not re-contact the employer until after December 8, 2005, at which time the employer advised Mr. Copple the employment had been terminated and Mr. Copple would need to apply.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Copple's separation from the employment was for good cause attributable to the employer. It does not.

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(16) 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

The evidence in the record establishes that Mr. Copple failed to appear for work for a period of at least 23 days due to incarceration. Pursuant to Workforce Development Rule 24.25(16), Mr. Copple is deemed to have voluntarily quit the employment without good cause attributable to the employer, and the administrative law judge so concludes. Mr. Copple is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is then otherwise eligible for benefits. The employer's account will not be charged for benefits paid to Mr. Copple.

DECISION:

The Agency representative's decision dated December 30, 2005, reference 01, is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in a been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

jt/kjw