

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Rod Albers was employed by Aesseal from January 6, 2001 until September 8, 2005. He was a full-time mechanical seal repair technician.

Two companies merged effective August 1, 2005, and Michael Tibor became Mr. Albers' supervisor. There was some tension between the two of them because of changes necessitated by the business merger. The claimant was told he might have to take on extra duties as far as working on gaskets and some shipping and receiving. He was not receptive to that idea and was asked to "think about it."

On September 6, 2005, the claimant left a voice mail on Mr. Tibor's cell phone saying he was taking a personal day off. The supervisor called him back and said there was a lot of work to do with the recent relocation of the facility and he needed the claimant to come to work. Mr. Albers asserted he did not need permission to take a personal day and the supervisor said he would have to "look into it" to determine if that was correct.

For some reason the claimant assumed he had been fired and did not appear for work the next day. On September 8, 2005, Mr. Tibor called him and said he had not been fired but the claimant said he was not coming to work except to pick up his personal belongings. The supervisor asked if this meant he was quitting and the claimant replied it was.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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(22) 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:

- (22) The claimant left because of a personality conflict with the supervisor.

The claimant apparently quit because he did not "get along" with the supervisor. The changes in the work environment due to the merger necessitated some change in the work routine and job duties, but this was not the cause of the claimant's decision to quit. He knew his job was

still available to him but chose not to continue working because he felt he would never be able to successfully work with Mr. Tibor. He did not bring any specific concerns about the situation to anyone in higher management, nor did he specifically notify Aesseal that he would quit unless his concerns were promptly addressed. This is required by Swanson v. EAB, 554 N.W.2d 294 (Iowa App. 1996) and unless these criteria are met, a quit is without good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of September 29, 2005, reference 03, is affirmed. Rod Albers is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/s