

**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**

**CARRIE L BROWN
APT 3
2063 KEY WAY
DUBUQUE IA 52002-3850**

**MENARD INC
4777 MENARD DR
EAU CLAIRE WI 54703**

**Appeal Number: 06A-UI-03790-HT
OC: 03/12/06 R: 03
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) – Quit

STATEMENT OF THE CASE:

The claimant, Carrie Brown, filed an appeal from a decision dated March 27, 2006, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on April 24, 2006. The claimant participated on her own behalf. The employer, Menard, participated by General Manager Matthew Toulouse and was represented Store Counsel Landon Pelkola.

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: Carrie Brown was employed by Menard from April 6, 2005 until March 9, 2006. She was a part-time cashier.

On March 9, 2006, Ms. Brown called General Manager Matthew Toulouse and said she would not be in that day and would not return. She did not give him a reason other than that the employer "expected too much" from her. At the hearing Ms. Brown said she was tired of people talking about her behind her back, claiming one co-worker had told her that another co-worker threatened to get her fired. Ms. Brown did not bring her concerns to the attention of the general manager, the human resources representative, either of the assistant managers or the corporate human resources department.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she 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(6) 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:

- (6) The claimant left as a result of an inability to work with other employees.

The claimant apparently felt other employees were "talking about her behind her back" but did not approach anyone in authority in an attempt to resolve the problems. She did ask the office manager to tell people not to talk about her behind her back but there is no evidence the office manager has sufficient authority to address her concerns. Ms. Brown did not ask for assistance from the general manager, the assistant managers, or the human resources department either at the store or the corporate level to either allay her concern the other employee was trying to get her fired or mediate the situation. Her decision to quit was based on her inability to work with other employees. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of March 27, 2006, reference 01, is affirmed. Carrie Brown is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/tjc