

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

STEVEN S PRITCHETT SR
1806 J AVE NE
CEDAR RAPIDS IA 52402-5210

CRETEX CONCRETE PRODUCTS
MIDWEST INC
4200 UNIVERSITY AVE #400
WEST DES MOINES IA 50266-5945

Appeal Number: 06A-UI-05959-DW
OC: 01/29/06 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 – Voluntary Quit

STATEMENT OF THE CASE:

Steven S. Pritchett, Sr. (claimant) appealed a representative's May 31, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Cretex Concrete Products Midwest, Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, an in-person hearing was held on July 18, 2006. The claimant participated in the hearing. Dan Hoover and Ty Larsen 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?

FINDINGS OF FACT:

The claimant started working for the employer on March 22, 2004. The claimant worked as a full-time employee. During his employment, the claimant performed various jobs, both inside and outside work.

In late 2005, the claimant believed the plant manager, Hoover, was trying to get rid of him after he assigned the claimant an inside job that did not require any training and took him off a job that required training. As a result of being laid off from work, the claimant established a claim for unemployment insurance benefits during the week of January 29, 2006.

The employer called the claimant back to work in late March 2006. The employer was still in the process of calling employees back to work when the claimant's employment ended in early May.

In late April, the claimant was working outside when the employer's overhead crane operator left his employment unexpectedly. The employer assigned the claimant this job because the claimant had worked next to the overhead crane operator in the past and the employer concluded he would be the best employee to know how to do the job. After the employer assigned the claimant to do the job, the claimant asked what kind of training he would receive. The employer indicated Cunningham would train the claimant and that the claimant should know what to do since he had worked next to the overhead crane operator in the past.

Cunningham did two pipes to show the claimant how to do the job and then turned the controls over to the claimant. During the four days the claimant performed the job, Cunningham showed the claimant ways to do the job more efficiently. The claimant was very apprehensive about this job because he was concerned not only about his safety but also the safety of other workers. Although the claimant did this job satisfactorily and Hoover thought he was doing a good job, the claimant did not like the stress of the job. He worked four days on the job and went home with a headache. During the four days on the job, the claimant did not inform Hoover that he felt unsafe doing the job and may quit if the employer did not assign another employee to the job. The claimant, however, told Hoover that he was stressed about having to do this job.

The employer planned to hire another person to do this job, but did not inform the claimant of this fact. After working Monday through Thursday, the claimant called in sick on Friday, May 5. The employer received information from other employees the claimant had not planned to work on Friday for personal reasons.

When the claimant reported to work on Monday, May 8, he informed the employer he could not handle the job any longer and asked if he could take a leave of absence by using his vacation time to look for another job. The claimant also wanted to change his federal income tax deduction and drop his insurance. The employer did not allow the claimant to take a leave of absence. The claimant did not go to a doctor when he went home with headaches for four days. The claimant's job ended on May 8.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant voluntarily quit on May 8 when he told the employer he was going to look for another job. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The law presumes a claimant voluntarily quits employment when he leaves rather than perform the assigned work. 871 IAC 24.25(27). The law presumes a claimant voluntarily quits employment when he leaves because of intolerable or detrimental working conditions. 871 IAC 24.26(4).

The claimant asserted he quit because of intolerable or detrimental working conditions. The facts do not establish intolerable or detrimental working conditions. Instead, the evidence indicates the employer assigned the claimant to a job he did not feel comfortable or like doing. Even though the claimant may have questioned his ability to do the job and was stressed by the responsibilities of the job, the employer thought he was doing a good job and there had been no problems in the four days the claimant worked in this position. The claimant did not like the job and did not believe the employer would assign him to another job in the near future. The facts establish the claimant quit because he did not like the work the employer assigned to him. While the claimant established compelling personal reasons for quitting, he did not quit for reasons that qualify him to receive unemployment insurance benefits. As of May 14, 2006, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's May 31, 2006 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for compelling personal reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 14, 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/cs