

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MATTHEW J STONEMAN
Claimant

APPEAL NO: 10A-UI-01946-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESTAR FOODS INC
Employer

**OC: 12/27/09
Employer: Appellant (2)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(4) – Intolerable/Detrimental Working Conditions

STATEMENT OF THE CASE:

The claimant appealed a department decision dated February 1, 2010, reference 01, that held he voluntarily quit without good cause attributable to his employer on December 17, 2009, and benefits are denied. A telephone hearing was held on March 16, 2010. The claimant, and his Mother, Robin Stoneman, participated. Claimant Exhibits A & B was received as evidence.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer under former ownership beginning in 2006, and continued in employment under the current ownership of Westar Foods beginning 2008. The claimant worked as a part-time cook/clerk, and backline employee anywhere from 30 to 35 hours a week until December 14, 2009. The claimant received approval to be off work from December 17 to December 21.

The claimant became noticeably ill at work on December 14 with symptoms of nausea, dizziness and vomiting. The employer-supervisor requested he work to the end of his shift, but he became ill to the point he left one-half hour early. The claimant called into work the next with timely notice that he would not be there due to his continuing illness. He further stated he would be seeing a doctor, and would bring in a doctor's excuse when he was able to return to work. Claimant's supervisor responded that he had the choice of finding a replacement, report for work or quit his job. The claimant was too ill to report for work, and in later conversation, he was told whether he had a doctor's excuse or not, it would not excuse him. The claimant knew it was not healthy for customers to be exposed to his illness during food handling/preparation, so he quit. The claimant's doctor excused him from work until December 17.

The employer did not respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

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 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The administrative law judge concludes the claimant voluntarily quit with good cause attributable to his employer due to intolerable and detrimental working conditions effective December 17, 2009.

It was unreasonable for the employer to require the claimant to report for work due to illness, and its failure to accept his doctor's excuse. The claimant's decision to quit is for good cause attributable to the employer due to these detrimental working conditions.

DECISION:

The department decision dated February 1, 2010, reference 01, is reversed. The claimant voluntarily quit with good cause attributable to his employer on December 17, 2009. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs