

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERIC G CARR
Claimant

APPEAL NO. 08A-UI-09109-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BLOOMFIELD FOUNDRY INC
Employer

**OC: 07/20/08 R: 03
Claimant: Appellant (5)**

Iowa Code § 96.5(1) – Voluntary Leaving
Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 2, 2008, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on October 23, 2008. Claimant participated. Employer participated through Jack Matheny.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer or if he was discharged for reasons related to job misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time iron pourer from November 14, 2006 until July 8, 2008 when he quit. On July 8 he clocked in at 6 a.m. and there was a machine malfunction so employer sent most people home but claimant volunteered to stay and work in the grinding department. Department supervisor Ryan Stevens and lead man in grinding area could not find him and reported him missing. When he had finished grinding all the parts by his work station he did not speak with the other employees in the area who were still grinding parts, ask the lead worker Jaime Taveri if there was additional work, and did not seek out the supervisor before clocking out at 7:14 a.m. There were additional carts with parts to be ground waiting in a nearby area. The other people working in the grinding department worked until at least 11:30 a.m. He rode home with Dick Hubert who clocked in at 5 a.m. and normally operated machines for another department but did clean up that morning. His schedule and workload did not coincide with the grinding department. While he told a secretary the next day that he left because his wife called and she was having labor pains, at hearing he acknowledged that she was having labor pains but the reason he left was because he believed he was done with work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not discharged but voluntarily left the employment without good cause attributable to the employer.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Code § 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(27) 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 § 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 § 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:

(27) The claimant left rather than perform the assigned work as instructed.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

While claimant may not have been working his bid job, he volunteered to stay and work in the grinding department. His failure to check with other employees who were still grinding when he left, the lead person who was working in the same area, or seek out a supervisor to see if there was more work to do or ask permission to leave was unreasonable. His leaving without notification or permission was a direct violation of work rules and was considered job abandonment. This was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The October 2, 2008, reference 01, decision is modified without effect. The claimant was not discharged but voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs