

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARNULFO G MEDINA
Claimant

APPEAL NO. 09A-UI-15910-M

**ADMINISTRATIVE LAW JUDGE
DECISION**

NEHRING CONSTRUCTION INC
Employer

OC: 01/04/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated October 15, 2009, reference 05, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 8, 2009. Claimant participated. Employer participated by Bret Nehring, Owner.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 22, 2009. Claimant quit work because he had some short work weeks. Claimant worked as a concrete finisher. Claimant had some short weeks work due to rain. Concrete finishing cannot be performed in the rain. Claimant asked for more work. Employer was not able to offer more work as that is the way the construction business works. Employees get short weeks when it rains. Claimant was aware of the nature of the business. Continued work was available if claimant had not quit.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was getting short weeks due to rain. Claimant understood the nature of the business that there was no work during rain. Claimant quit due to dissatisfaction with the work environment. This is a quit without cause as continued work was available. Benefits withheld.

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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

DECISION:

The decision of the representative dated October 15, 2009, reference 05, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css