

**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**

**BOYD R MOSLEY
1721 – 250TH ST
ALEDO IL 61231**

**OAK STEEL MANUFACTURING LOC 11
300 OAK ST
MUSCATINE IA 52761**

**Appeal Number: 04A-UI-08245-DT
OC: 06/27/04 R: 04
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 Leaving

STATEMENT OF THE CASE:

Boyd R. Mosley (claimant) appealed a representative's July 19, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Oak Steel Manufacturing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 20, 2004. The claimant participated in the hearing. Marti Stumpf 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.

FINDINGS OF FACT:

The claimant started working for the employer on January 10, 2000. He worked full time as a lead utility painter on the second shift in the employer's office furniture manufacturing facility. His last day of work was November 15, 2003. He called in an absence for the week of November 17 due to personal illness. His wife called in an absence for the claimant for November 24 and November 25 due to a child's illness. The facility was not operating from November 26 through December 1. The claimant was scheduled to report back to work at 3:00 p.m. on December 2, 2003. However, he was a no-call/no-show for that day and all days thereafter. The claimant had been arrested on or about December 2 on a charge of driving while revoked, and was sentenced for that charge. He was incarcerated from the time of his arrest until being released in June, 2004 after serving his sentence. The employer considered his employment terminated for job abandonment.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

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 provides that, 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. However, an employee is also deemed to have left without good cause if the employee is absent from work due to becoming incarcerated. 871 IAC 24.25(16). Benefits are denied.

DECISION:

The representative's July 19, 2004 decision (reference 01) is affirmed. The claimant is deemed to have voluntarily left his employment without good cause attributable to the employer. As of December 2, 2003, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

ld/b