

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

TIMOTHY MORSE
805 S CENTRAL AVE
BURLINGTON IA 52601

VISTA BAKERY INC
PO BOX 888
3000 MT PLEASANT
BURLINGTON IA 52601-0888

Appeal Number: 05A-UI-06974-BT
OC: 09/05/04 R: 04
Claimant: Appellant (5)

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:

Timothy Morse (claimant) appealed an unemployment insurance decision dated June 29, 2005, reference 04, which held that he was not eligible for unemployment insurance benefits because he was discharged from Vista Bakery, Inc. (employer) for work-connected misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 25, 2005. The claimant participated in the hearing with his wife, Angela Morse. The employer participated through Nancy Tripp, Human Resources Director. Employer's Exhibit One was admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time machine tech trainee from April 22, 2004 through June 13, 2005. At some point in 2005, he was demoted to a packer. He was scheduled to work his regular eight-hour shift on June 3, 2005, which was 7:00 a.m. to 3:00 p.m., but had also been assigned to work four hours of overtime. He learned that upon arriving at work that day. Although the employer tries to give its employees advance notice of overtime, it is not always possible and is not required. Three to four hours before he was scheduled to complete his regular shift, he told his team lead that he was not going to work overtime because he did not feel well. The claimant knew he had to have authorization from a supervisor before leaving work or it would be considered to be job abandonment per the employer's work rules. He later asked the team lead whether he had talked to the supervisor and the team lead responded negatively, but turned around to use the phone so the claimant just assumed he was contacting the supervisor. The claimant did not talk to the team lead after that point.

Later that day at approximately 2:40 p.m., the claimant was called into his supervisor's office. In front of two supervisors, he was issued a written warning for attendance but refused to sign it because he did not agree with its contents. The claimant did not obtain permission from his supervisors for leaving early that day and did not even mention the fact because he was "nervous." He left that meeting, clocked out and went home. He returned to work on June 6, 2005, but was suspended pending an investigation. On June 13, 2005, the employer advised him that his employment was terminated, as he was considered to have voluntarily quit his employment by walking off the job.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated his intent to quit and acted to carry it out by walking off the job before his shift ended. He knew he was required to work overtime and knew that he had to obtain permission before leaving early. The claimant contends he did talk to his team lead but that action is wholly inconclusive since he still knew he had to have his supervisor's authorization to leave, as seen by him questioning the team lead as to whether the team lead talked to the supervisor.

When determining whether an employee has demonstrated an intent to quit, only that employee's objective words and actions can be evaluated since his personal thoughts cannot be ascertained. As seen by the employer, the claimant refused to sign a disciplinary warning and then walked off the job before his assigned shift was done. The claimant has failed to establish a reasonable excuse for not talking to a supervisor before leaving early that day. Consequently, it can only be determined that the claimant intended to quit his employment on June 3, 2005 and possibly changed his mind later. It is the claimant's burden to prove that the

voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated June 29, 2005, reference 04, is modified with no effect. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

sdb/kjw