

**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 A KING
APT 201
609 E MADISON ST
MT PLEASANT IA 52641**

**CENTRAL IOWA KFC INC
PO BOX 269
COLUMBUS JUNCTION IA 52738-0269**

**Appeal Number: 05A-UI-11564-LT
OC: 10-16-05 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)

Iowa Code §96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the November 1, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on November 30, 2005. Claimant did participate. Employer did participate through Julie Mangold.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time shift manager through October 16, 2005 when he quit. On October 5, 2005, assistant manager Robert Frechette kicked claimant in the buttocks. Linda Tedrow, store general manager, saw the incident and laughed about it. The kick caused his buttocks to bruise and bleed and he advised Tedrow he was seeking a doctor's care but did not

tell her about his preexisting medical condition, tell her that he thought the kick had aggravated the condition, ask her to file an accident report or otherwise take action against Frechette.

Area coach Julie Mangold was working on October 5 and took off the weekend of October 6 and 7 but claimant did not advise her of the incident until October 12. He told Mangold that he did not believe Frechette acted intentionally as Tedrow and he were "joking" at the time. Mangold instructed claimant to schedule a meeting with Frechette and herself later that week so they could resolve the conflict. Claimant set a meeting with Frechette on October 14 but did not include Mangold. Mangold drafted a reprimand for Frechette on October 13.

On October 15 claimant called Mangold to report his absence at which time she told him she would remove Frechette from the store. Mangold also advised Tedrow of her intention on the same day. Claimant called Mangold on October 16 and quit in spite of Mangold's attempts to talk him into retaining his employment. He told Mangold only that Frechette did not take the meeting on October 14 seriously but did not tell her about recent problems of Frechette bringing claimant's subordinates into the dispute.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without 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.

An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991).

Inasmuch as Mangold acted reasonably in response to claimant's complaints by stating her intent to remove Frechette from the store, and claimant quit in spite of that knowledge, the separation was without good cause attributable to the employer. Benefits are denied.

DECISION:

The November 1, 2005, reference 01, decision is affirmed. The claimant 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.

dml/tjc