

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

REECE A WICKER
503 – 3RD ST
BOX 164
GRANT IA 50847

PROFESSIONAL RESOURCES INC
900 CENTRAL AVE
NEBRASKA CITY NE 68410

Appeal Number: 04A-UI-11539-HT
OC: 10/03/04 R: 01
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 - Quit

STATEMENT OF THE CASE:

The claimant, Reece Wicker, filed an appeal from a decision dated October 19, 2004, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on November 17, 2004. The claimant participated on his own behalf. The employer, Professional Resources, Inc., participated by Payroll Manager Tammy Gut. Exhibit One was admitted into the record.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Reece Wicker was employed by Professional Resources from April 12 until September 14, 2004. His last assignment was at AKS in Clarinda, Iowa, which began

in mid-August 2004. At the time the assignment was offered the hours were designated at 8:00 a.m. to 3:00 p.m. Monday and Tuesday, and 11:00 p.m. to 11:00 a.m., Friday and Saturday. He accepted the offer of work and agreed to the hours.

Within two weeks the claimant was requesting a change in his schedule to more "normal" hours. Representatives of Professional Resources discussed the request with AKS and were told the schedule had to be maintained as agreed upon to meet its needs. Mr. Wicker was notified by Marylou Friedman the hours would not be changed and he told her he was quitting.

The claimant maintained he had been told by Ms. Friedman he was being replaced at AKS, but this is not correct. The employer was not able to replace the claimant and, as a result, lost the contract with that client. Mr. Wicker did not contact the employer again to request another assignment until after the unemployment fact-finding interview on October 18, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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(18) 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:

- (18) The claimant left because of a dislike of the shift worked.

The claimant's reason for quitting was that he did not like the schedule he was working. However, he had been made aware of the hours before he accepted the assignment and there is no evidence he was promised any change in his schedule at any time. The record establishes the claimant did not have good cause attributable to the employer. He is disqualified.

DECISION:

The representative's decision of October 19, 2004, reference 01, is affirmed. Reece Wicker is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/tjc