

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

MICHAEL BYBEE  
2705 WEDGEWOOD RD  
DES MOINES IA 50317

GENUINE PARTS COMPANY  
NAPA AUTO PARTS  
c/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-03787-DT  
OC: 02/29/04 R: 02  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Michael Bybee (claimant) appealed a representative's March 25, 2004 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Genuine Parts Company, doing business as NAPA Auto Parts (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 26, 2004. The claimant participated in the hearing. Carolyn Miller appeared on the employer's behalf and presented testimony from one other witness, Jack Fischer. 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.

ISSUE: Did the claimant voluntarily quit for a good cause attributable to the employer?

#### FINDINGS OF FACT:

The claimant started working for the employer on January 16, 1995. He worked full time as a truck loader and stocker in the employer's Des Moines, Iowa auto part wholesale distribution center. His last day of work was October 24, 2003.

On June 16, 2003, the employer gave the claimant a verbal warning for failing to meet productivity standards. On September 15, it gave him a written warning for failing to meet productivity standards. On October 15, Mr. Fischer, the stockroom manager, called the claimant in to meet with him to give him a final written warning for failing to meet productivity standards. The claimant indicated that he was not going to be able to meet the standards, and instead of accepting the warning, indicated he was giving his two-week notice.

The claimant had been able to meet or exceed the productivity standards in the past, but was affected by mood on occasion, which he attributed to the times he did not meet the standards. He was disappointed by how there had been some changes in the business since he began his employment that made the employer's environment less pleasant with the greater emphasis on productivity.

#### 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. The claimant did express his intent not to return to work with the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code Section 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). The claimant raised some issues relating to safety, but those issues the claimant brought to management's attention regarding drivers' unsafe practices were addressed; another safety issue regarding a garbage compactor was not taken to the employer as a concern. The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial

Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's March 25, 2004 decision (reference 02) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of March 25, 2004, 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/kjf