

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

BRENT A MAULDIN
811 W 1ST ST
WATERLOO IA 50701

CNE LIMITED
PO BOX 83
WATERLOO IA 50704-0083

Appeal Number: 04A-UI-06589-AT
OC: 05-16-04 R: 03
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 Quit

STATEMENT OF THE CASE:

Brent A. Mauldin filed a timely appeal from an unemployment insurance decision dated June 7, 2004, reference 01, which disqualified him for benefits following his separation from employment with CNE, Ltd. After due notice was issued, a telephone hearing was held July 7, 2004 with Mr. Mauldin participating. Staffing Administrator Shelly Olsson participated for the employer. This matter is considered on a consolidated record with 04A-UI-06590-AT.

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: CNE, Ltd. is one and the same company as City and National Temps, Inc. Brent Mauldin was employed by the company on assignment at a business known as Control-O-Fax from March 4, 2004 until he resigned on May 10, 2004. On May 6, 2004, Mr. Mauldin told Staffing Administrator Shelly Olsson that he wished to be considered for other assignments. He said he was having difficulty with a bossy co-worker and the job entailed more lifting than he had anticipated. He did not at that time express any intention to resign. On May 10, 2004, Mr. Mauldin left a message that he would not be returning to the Control-O-Fax assignment and would be looking for other work. Ms. Olsson called Mr. Mauldin and left a message with his wife, asking him to contact her. Mr. Mauldin did not do so.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Mauldin left employment with good cause attributable to the employer. It does not.

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 resigns because of inability to get along with a co-worker leaves work without good cause attributable to the employer. See 871 IAC 24.25(6). An individual who resigns because of a medical condition caused or aggravated by working conditions may receive unemployment insurance benefits under some circumstances. To receive benefits, an individual must present competent evidence showing sufficient health reasons to justify the quit and must establish that before resigning, the individual put the employer on notice of the individual's intention to resign unless the health condition was adequately addressed. See Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993) and 871 IAC 24.26(6)b.

While Mr. Mauldin presented evidence that the job entailed more lifting than he had anticipated, he did not submit evidence establishing that the lifting was causing or aggravating any medical condition. The evidence also does not establish that Mr. Mauldin put the employer on notice that he intended to resign if his concerns about lifting were not addressed. Subjective evidence that lifting might cause a health risk is not sufficient to establish good cause attributable to the employer. Considering each reason for separation and the totality of the circumstances, the administrative law judge concludes that benefits must be withheld.

DECISION:

The unemployment insurance decision dated June 7, 2004, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

tjc/tjc