

**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**

**TIM P STILWELL
6006 SW 15TH
DES MOINES IA 50315**

**HAWKEYE WOOD SHAVINGS INC
5511 E UNIVERSITY
DES MOINES IA 50327**

**Appeal Number: 04A-UI-10371-MT
OC: 08/29/04 R: 02
Claimant: Respondent (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:

Employer filed an appeal from a decision of a representative dated September 17, 2004, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 15, 2004. Claimant participated. Employer participated by Frank Sloan, Owner, Colleen Adkins, Dispatcher, and Sue Schlampp, Safety Director. Exhibits One, Two and Three were admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 2, 2004. Claimant was verbally assaulted by his supervisor after a DOT citation for the 14-hour rule. Claimant was yelled at and sworn at by the owner. Claimant quit because of the detrimental working conditions.

REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether claimant quit for good cause attributable to employer. The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of detrimental working conditions. Claimant's version is found correct, as the employer could not provide any corroborating evidence to prove their version. Employer had control over the work environment and could have solicited witnesses from the workplace easier than claimant. Thus, absent any corroborating testimony from the employer the claimant's version is found correct. Benefits allowed.

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 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (4) The claimant left due to intolerable or detrimental working conditions.

DECISION:

The decision of the representative dated September 17, 2004, reference 01, is affirmed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

mdm\s