

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

JASON M SCHLAPIA
Claimant

APPEAL NO: 13A-UI-08249-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLMAN DYNAMICS CORPORATION
Employer

OC: 06/16/13
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Jason M. Schlapia (claimant) appealed a representative's July 8, 2013 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment with Wellman Dynamics Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 20, 2013. The claimant participated in the hearing and presented testimony from one other witness, Dean Meisenheimer. The employer received the hearing notice and responded by calling the Appeals Section on July 26, 2013. The employer indicated that Liberty Hansen would be available at the scheduled time for the hearing at a specified telephone number. However, when the administrative law judge called that number at the scheduled time for the hearing, Ms. Hansen was not available; therefore, the employer did not participate in the hearing. Based on the evidence, the arguments of the claimant, 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?

OUTCOME:

Reversed. Benefits allowed.

FINDINGS OF FACT:

The claimant started working for the employer on or about June 1, 2008. He worked full time as a molder. His last day of work was May 24, 2013. He voluntarily quit work as of that date.

The claimant had been under scrutiny by the employer, having been given various write-ups for attendance even though he had been covered by FMLA (Family Medical Leave); he had even been told in March that he was fired, but had later been told it was a mistake. He had still been given a "last chance" regarding his attendance.

On May 24 the claimant was discussing with his supervisor that the other departments were not getting enough parts to him for him to keep busy with his work. The supervisor responded, "Grab a broom, b - - - ." The claimant felt that this was the last straw, that he was just too tired of how the employer had been treating him, and told his supervisor that he quit.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Intolerable or detrimental working conditions are good cause for quitting attributable to the employer. 871 IAC 24.26(4). The claimant has demonstrated that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Benefits are allowed.

DECISION:

The representative's July 8, 2013 decision (reference 01) is reversed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css