

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

BRYAN C HAMILTON  
PO BOX 432  
DAKOTA CITY NE 68731

LOCAL SPORTS SOURCE  
2001 RIVERSIDE BLVD  
SIOUX CITY IA 51109

Appeal Number: 04A-UI-06231-CT  
OC: 05/02/04 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, 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 Quit

STATEMENT OF THE CASE:

Bryan Hamilton filed an appeal from a representative's decision dated May 28, 2004, reference 01, which denied benefits based on his separation from Local Sports Source. After due notice was issued, a hearing was held by telephone on July 6, 2004. Mr. Hamilton participated personally and offered additional testimony from Chad Saunders. The employer participated by Jim McBride, Owner; Hope McBride, Secretary/Bookkeeper; and Bonnie Martin, Secretary.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Hamilton was employed by Local Sports Source from February 1, 2002 until April 26, 2004 as a full-time salesperson. On April 27, he notified Bonnie Martin that he would not be a work. He was absent because he was working on a project with his brother. Jim McBride had previously told him he would be allowed to have time off for the project but no specific dates were discussed. Mr. Hamilton did not report for work or contact the employer until late morning on April 28.

When Mr. Hamilton reported to the office on April 28, he spoke to Hope McBride. Mr. Hamilton also rented property from Mr. McBride, but his rental was separate from his employment. On April 28, Hope McBride questioned him as to why he had not been at work. She also reminded him that he was already two months behind in his rent and that a third month's rent would be due shortly. She did not direct any profanity towards him or tell him to leave the workplace. She told him to either make payment of his rent or be out of the property by May 1. Mr. Hamilton did not report for work or contact the employer on April 29 or April 30. He saw Mr. McBride on the evening of April 30 and explained the exchange he had had with Hope McBride on April 28. Mr. McBride advised him that he had not been discharged and was welcome to return to work. Mr. Hamilton indicated he would not be returning. Continued work would have been available had he reported for such work.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Hamilton was separated from employment for any disqualifying reason. It was his decision to stop reporting for available work after his conversation with Hope McBride on April 28. He was not discharged during the conversation and was not asked to leave the employment. He was only told that he had to be out of his rental property by May 1 if the rents were not paid. Inasmuch as the property was not provided in conjunction with his employment, his eviction from the rental property would not constitute a discharge from the employment. Furthermore, he was told on April 30 that he could remain in the employment but declined to do so. For the above reasons, the administrative law judge concludes that Mr. Hamilton voluntarily quit the employment by not reporting for work on or after April 29.

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1). Mr. Hamilton had the burden of proving that his quit was for good cause attributable to the employer. Iowa Code Section 96.6(2). He quit because he was reminded that his rent was overdue and that he might be evicted from the property he rented from the employer. He could have continued his employment even if evicted from the rental property. It was not unreasonable for the employer to raise the issue of his overdue rent. Therefore, his reason for quitting was not attributable to the employer. Accordingly, benefits are denied.

#### DECISION:

The representative's decision dated May 28, 2004, reference 01, is hereby affirmed as to the disqualification. Mr. Hamilton quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/kjf