

**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**

**GRANT G NELSON
802 PARK ST
ALTON IA 51003**

**AMERICAN IDENTITY INC
PO BOX 25901
OVERLAND PARK KS 66225-5901**

**Appeal Number: 05A-UI-06581-RT
OC: 05/29/05 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, 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 Quitting

STATEMENT OF THE CASE:

The claimant, Grant G. Nelson, filed a timely appeal from an unemployment insurance decision dated June 16, 2005, reference 01, denying unemployment insurance benefits to him. After due notice was issued, a telephone hearing was held on July 12, 2005, with the claimant participating. Sue Wallin, Manager of Wearable Design, participated in the hearing for the employer, American Identity, Inc. Deb Anderson, Employment Coordinator, was available to testify for the employer but not called because her testimony would have been repetitive and unnecessary. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

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: The claimant was employed by the employer as a full-time auto printer from December 22, 2003, until he voluntarily quit on May 12, 2005. On that day the claimant returned to work after having left work earlier, because he was ill, and tossed his keys on the desk of Sue Wallin, Manager of Wearable Design, and the employer's witness, and informed her that he did not appreciate the phone call he had just received from her and that he quit. Before she could respond, the claimant left and has never returned and never offered to go back to work at his old job. The claimant quit because he was displeased with a phone call that he had received from Ms. Wallin. On May 12, 2005, the claimant had come to work not feeling well. He thought he might feel better but did not. He told several others that he was going to go home, and if he felt better, he would be back in a couple hours. At that time the employer was very busy and the employees were on overtime. When Ms. Wallin learned of the claimant's absence, she called him at approximately 8:30 a.m. and asked the claimant why he was not at work. He indicated that he had left work because he was not feeling well. She reminded the claimant that he was low on time and asked that if there was any way that he could come back, she would appreciate it. The claimant said that he had planned to lay down for an hour and then return to work because he needed the money also. Ms. Wallin thought the conversation had gone well. The claimant went back to work angry and had the conversation as set out about with Ms. Wallin when he quit. There was no other reason for the claimant's quit. The claimant had had no prior difficulties with Ms. Wallin and he had never expressed any concerns to the employer about any working conditions nor had he ever indicated or announced an intention to quit if any problems he was having at work were not addressed by the employer.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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(1)(22)(28) provides:

Voluntary quit without good cause. 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 employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

(22) The claimant left because of a personality conflict with the supervisor.

(28) The claimant left after being reprimanded.

The parties agree that the claimant left his employment voluntarily. The issue then becomes whether the claimant left his employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that he has left his employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet his burden of proof to demonstrate by a preponderance of the evidence that he left his employment with the employer herein with good cause attributable to the employer. The claimant testified that the only reason he left his employment was because he was displeased with a phone call he had received from Sue Wallin, Manager of Wearable Design, and the employer's witness. The claimant had gone home ill, and Ms. Wallin had asked the claimant if there was any way he could come back, she would appreciate it because the employer was very busy and the employees were on overtime. The claimant informed her that he planned to lie down for an hour and then would return because he needed the money. The claimant's testimony to the contrary is not credible. The claimant testified that he was directed to return to work and did not voluntarily do so, but this was belied by the claimant's own testimony that he told his co-workers that he was going to go home and if he felt better, he would return in a couple hours. It appears that the claimant intended to return to work. However, the claimant was angered when he was asked if he could return to work and went back and quit. It appears that the claimant had a personality conflict with the supervisor, but this is not good cause attributable to the employer. It may be that the claimant believed that he was being reprimanded for going home early, but, again, this is not good cause attributable to the employer. The claimant himself agreed that he had had no prior problems with Ms. Wallin, and he had never expressed any concerns to the employer about Ms. Wallin or any other matters, and he had never indicated or announced an intention to quit if any of his concerns were not addressed by the employer. The administrative law judge concludes that there is not a preponderance of the evidence that the claimant's working conditions were unsafe, unlawful, intolerable or detrimental, or that he was subjected to a substantial change in contract of hire. The administrative law judge further concludes that the claimant did not provide the employer a reasonable opportunity to address any of his concerns before he quit. Accordingly, the administrative law judge concludes that the claimant left his employment voluntarily without good cause attributable to the employer and, as a consequence, he is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until or unless he requalifies for such benefits.

DECISION:

The representative's decision of June 16, 2005, reference 01, is affirmed. The claimant, Grant G, Nelson, is not entitled to receive unemployment insurance benefits, until or unless he requalifies for such benefits, because he left his employment voluntarily without good cause attributable to the employer.

kjw/kjw