

**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**

**HARRY G NASH
691 HWY 17
NEW BOSTON IL 61272**

**ALLSTEEL INC
200 OAK ST
PO BOX 1109
MUSCATINE IA 52761**

**Appeal Number: 04A-UI-11998-LT
OC: 10-17-04 R: 04
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 Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the November 3, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on November 30, 2004. Claimant did participate.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time fork truck driver through October 16, 2004 when he quit. Claimant had been drinking the night before and was still under the influence while at work. Tim Long, Supervisor, asked him if he was still drinking and said claimant would have to take a drug screen because Long could still smell alcohol on him. The employer policy provides for testing

upon reasonable suspicion. Claimant said he would not be able to pass the test. Long told him that he would have to let him go if he did not take the drug screen and walked him out the door.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2 (amended 1998).

Claimant was made aware that he must take a drug screen pursuant to employer policy or face a separation from employment. Claimant elected not to take the drug screen and was escorted out of the plant according to company policy. Claimant's declination to take the test was not a good cause reason attributable to the employer for initiating the separation. Benefits are denied.

DECISION:

The November 3, 2004, reference 01, decision is affirmed. The claimant voluntarily left his employment without 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 benefit amount, provided he is otherwise eligible.

dml/kjf