

**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**

**JASON E CARNEY
625 – 36TH ST NE
CEDAR RAPIDS IA 52402**

**BOTKIN ENTERPRISES INC
JENSEN PROFESSIONAL PAINTING
105 - 5TH AVE W
PO BOX 252
WALFORD IA 52351-0252**

**Appeal Number: 04A-UI-08112-S2T
OC: 05/02/04 R: 03
Claimant: Appellant (2)**

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:

Jason Carney (claimant) appealed a representative's July 20, 2004 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Botkin Enterprises Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 18, 2004. The claimant participated personally. The employer participated by Mark Botkin, Owner.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 29, 2003, as a full-time laborer. The employer reduced the claimant's hours, sometimes less than 20 hours per week. The claimant told the employer if he did not get full-time work he would have to quit work. The claimant's hours did not increase. In early June 2004, the claimant gave the employer notice he would be quitting work. The claimant's last day of work was June 18, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes he did.

871 IAC 24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

A 25 percent to 35 percent reduction in working hours is, as a matter of law, a substantial change in the contract of hire. A substantial pay reduction creates good cause attributable to the employer for a resignation. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). An employee must give prior notice to the employer before quitting due to a change in the contract of hire. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The claimant quit work because the employer changed his hours worked. A change in one's hours or shift is a substantial change in one's contract for hire. The employer substantially changed the claimant's contract for hire and, therefore, the separation was not voluntary. The claimant is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

DECISION:

The representative's July 20, 2004 decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. He is eligible to receive unemployment insurance benefits.

bas/smc