

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

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Appeal Number: 04A-UI-00030-LT
OC 02-09-03 R 01
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 Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the December 24, 2003, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 3, 2004. Claimant did participate and was represented by Richard Sturgeon. Employer did participate through Joe Garthwright.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time machine operator through August 22, 2003 when he quit. Claimant had hydraulic oil on his feet because of a leak on his end loader. Claimant advised Joe Garthwright, president, that he would not drive unless the oil leak would be fixed. He gave

employer three months to fix the problem and continued to report the concern. He was concerned about slipping on the oil and aggravating his orthopedic condition or injuring himself. Claimant showed Garthwright the oil on his boots. When quitting, he advised employer he was retiring because of the failure to fix the oil leak. Employer acknowledged the leak and directed claimant to wipe his boots off.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with 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.

871 IAC 24.26(2), (4) provide:

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:

(2) The claimant left due to unsafe working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

Claimant gave employer more than enough notice to repair the admitted oil leak. Directing claimant to wipe his boots off was not sufficient to address the issue. Claimant's safety was at issue, especially due to his risk of injury if he were to fall. This was an unsafe and intolerable working environment. Benefits are allowed.

DECISION:

The December 24, 2003, reference 01, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

dml/kjf