

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

RODNEY J MITCHELL
Claimant

APPEAL NO. 08A-UI-08876-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KRAUSE CONSTRUCTION INC
Employer

**OC: 03/25/07 R: 02
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Rodney Mitchell filed an appeal from a representative's decision dated September 29, 2008, reference 02, which denied benefits based on his separation from Krause Construction, Inc. After due notice was issued, a hearing was held by telephone on October 20, 2008. Mr. Mitchell participated personally. The employer participated by Wanda Krause, Treasurer.

ISSUE:

At issue in this matter is whether Mr. Mitchell was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Mitchell began working for Krause Construction, Inc. on January 12, 2008. He was hired to work full time in demolition. The employer's work is not dependent on the weather as the work is performed inside. When work is slow or not available at one job site, workers will be transferred to other sites.

Mr. Mitchell last performed services on April 4, 2008. He told the employer he was going to side houses with his father-in-law. He did not return to work after April 4. Continued full-time work would have been available if Mr. Mitchell had continued reporting for work. The employer has not laid anyone off due to lack of work and has had to run ads in an effort to hire additional workers.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes from all of the evidence that Mr. Mitchell initiated his separation from employment when he decided he would not continue working for Krause Construction, Inc. As such, his separation was a voluntary quit. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Having taken the position that he was laid off due to lack of work, Mr. Mitchell did not offer any reason he would quit the

employment. He told the employer he was going to side houses but acknowledged during the hearing that he had not worked since April 4, 2008.

The evidence of record does not establish any good cause attributable to the employer for Mr. Mitchell's quit. The administrative law judge appreciates that the number of hours Mr. Mitchell worked declined beginning the end of February. However, the administrative law judge is more inclined to believe that the reduction was due to an unwillingness to work rather than the unavailability of work. Given the fact that the employer has had to advertise for workers, it seems more likely than not that there was available work. For the reasons cited herein, benefits are denied.

DECISION:

The representative's decision dated September 29, 2008, reference 02, is hereby affirmed. Mr. Mitchell 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.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs