

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

MICHAEL SEVENING  
1742 OSCEOLA AVE  
CORRECTIONVILLE IA 51016

HOLLY A BROWN CONSTRUCTION INC  
2408 LUCAS AVE  
ANTHON IA 51004

Appeal Number: 06A-UI-01436-SWT  
OC: 12/18/05 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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 25, 2006, reference 02, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on February 22, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time for the employer from May 2000 to April 29, 2005. On April 29, 2005, the claimant was waiting at the office for Rod Brown for his orders so he could report to the job site and start working. When Brown showed up, he became angry at the claimant and a coworker for not helping the mechanic change tire. Brown and the claimant began arguing after Brown called the claimant and the coworker "stupid motherfuckers." After they argued for

a while, Brown said, "get the fuck out of here," which the claimant reasonably believed meant he was fired. The claimant started walking toward his car. Brown followed him, pushed him, and threatened to punch the claimant and beat him up while continuing to spew profanities toward the claimant. The claimant did not intend to return to work after Brown's conduct because he understood that he had been fired and Brown's treatment of him was intolerable.

When the claimant got home, he received a call from someone at Cockburn Seeding and Fencing. He was offered work by Cockburn Seeding and Fencing because Brown had told someone with Cockburn Seeding and Fencing that he had just fired the claimant. The claimant worked for Cockburn Seeding and Fencing from May 2 to November 30, 2005, when he was laid off for the winter. The claimant was paid over ten times his weekly benefit amount of \$337.00 while working for Cockburn Seeding and Fencing.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. The evidence establishes that the claimant was discharged when the employer told him to leave. No misconduct as defined by the unemployment insurance law in 871 IAC 24.32(1) has been proven. Even if the claimant can be said to have quit, it was for good cause attributable to the employer since he left due to intolerable working conditions under 871 IAC 24.26(4).

#### DECISION:

The unemployment insurance decision dated January 25, 2006, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

saw/s