

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEE J BECK
Claimant

APPEAL NO: 06O-09024-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BAKER ELECTRIC INC
Employer

OC: 03/05/06 R: 02
Claimant: Appellant (1)

Section – 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Lee Beck filed an appeal from a representative's decision dated June 27, 2006, reference 01, which denied benefits based on his separation from Baker Electric, Inc. Pursuant to the appeal, a telephone hearing was scheduled for July 31, 2006. The August 2, 2006 decision of the administrative law judge affirmed the disqualification. Mr. Beck filed a further appeal with the Employment Appeal Board, which, on September 5, 2006, remanded the matter for a new hearing. A new hearing was ordered because Mr. Beck had been unable to participate in the prior hearing through no fault of his own.

Pursuant to the Employment Appeal Board remand, due notice was issued scheduling the matter for a telephone hearing on September 25, 2006. Mr. Beck participated personally. The employer participated by Larry Enga, Shop Superintendent.

ISSUE:

At issue in this matter is whether Mr. Beck 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. Beck was employed by Baker Electric, Inc. from August 5, 1999 until June 1, 2006. He was last employed full-time as a journeyman wireman. On June 1, 2006, Mr. Beck was assigned to work under an individual with whom he did not want to work. He did not want to work with the individual because the individual is a registered sex offender, having been convicted of a sex crime in 1994. Mr. Beck had worked with the individual in the past, before learning of his conviction. He did not have any problems working with the individual in the past. Mr. Beck had moral and ethical issues working for a registered sex offender. He has daughters under the age of seven, but they do not come to the job site with him.

Mr. Beck asked the employer to assign him to different work on June 1. The employer did not have other work for him. Because he would not perform the work the employer had available, he became separated from the employment.

REASONING AND CONCLUSIONS OF LAW:

The threshold issue in this matter is whether the separation should be considered a quit or a discharge. A quit is a separation initiated by the employee whereas a discharge is a separation initiated by the employer. The administrative law judge concludes that Mr. Beck initiated his separation from Baker Electric, Inc. by refusing to perform the work assigned. Therefore, the separation is 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).

Mr. Beck quit his employment because he was assigned to work under an individual who had been convicted of a sex crime. Mr. Beck was not aware of any problems this individual's criminal history had created at the workplace. This individual had not engaged in any inappropriate conduct towards Mr. Beck or in Mr. Beck's presence. The individual's history had no direct, adverse impact on Mr. Beck. The employer was well aware of the individual's history and had every right to employ him if it so chose. An employee cannot dictate the employer's hiring practices or pick and choose which employees he will work with. Absent some direct, negative impact on the employee, the fact that the employer has chosen to hire a registered sex offender does not constitute good cause attributable to the employer for quitting.

The administrative law judge appreciates that Mr. Beck had moral and ethical issues with the individual who is a registered sex offender. Although he may have had good personal cause for quitting, his leaving was not for good cause attributable to the employer. For the reasons stated herein, benefits are denied.

DECISION:

The representative's decision dated June 27, 2006, reference 01, is hereby affirmed. Mr. Beck 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/cs