

**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**

**SHAWN HILMER
366 CALIFORNIA ST
WATERLOO IA 50703**

**NORTH EAST MACHINE & TOOL INC
PO BOX 248
JANESVILLE IA 50647**

**Appeal Number: 04A-UI-03658-ET
OC 04-27-04 R 03
Claimant: Appellant (1)**

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:

The claimant filed a timely appeal from the March 25, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 8, 2004. The claimant participated in the hearing. Steve Bouska, Production Shop Foreman, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time machinist for North East Machine & Tool from September 13, 2000 to March 4, 2004. In 2001, the employer asked the claimant to run a

different machine while another employee was on vacation and the claimant agreed. The employer left the claimant on that machine and gave him incentive bonuses because his performance was good. During approximately the last six months of his employment, the claimant told the employer he was not happy working on that machine because it was so repetitive as he was only making one part. The employer was aware of his concerns but did not want to move the claimant because its business needs were best-suited by leaving him on that machine. The claimant did not tell the employer he was going to quit because of that issue and did not give the employer notice before leaving.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without 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.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2 (amended 1998). While the claimant's frustration at working on the same machine for two or three years is understandable, the employer has the right to allocate its personnel in accordance with its needs and available resources. Brandl v. IDJS, (Unpublished, Iowa App. 1986). Additionally, although the claimant's change from one machine to another in 2001 might have been a good cause reason for leaving if he chose to resign at that time, the claimant waited at least two years after the change to quit his job. Claimant's resignation seven months after substantial change in the contract of hire was a disqualifiable event because the claimant was held to have acquiesced in the changes. Olson v. EAB, 460 N.W.2d 865 (Iowa App. 1990). For the above-stated reasons, the administrative law judge concludes the claimant has not demonstrated that his leaving was for good cause attributable to the employer. Benefits are denied.

DECISION:

The March 25, 2004, reference 01, decision is affirmed. The claimant voluntarily left his employment without 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 benefit amount, provided he is otherwise eligible.

je/kjf