

**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**

**CLIFFORD G HALL
7460 NW 16TH ST
ANKENY IA 50021**

**CENTRAL IOWA HOSPITAL CORP
C/O HUMAN RESOURCES
1313 HIGH ST STE 111
DES MOINES IA 50309-3119**

**Appeal Number: 04A-UI-12503-DT
OC: 10/31/04 R: 02
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:

Clifford G. Hall (claimant) appealed a representative's November 16, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Central Iowa Hospital Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 15, 2004. The claimant participated in the hearing. Karen Pierick appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

After a prior period of employment with the employer, the claimant most recently started working for the employer on December 5, 1995. As of approximately October 1, after a transfer to another department at his request, he worked full time as a housekeeper/technician in the employer's hospital. His last day of work was October 20, 2004.

The claimant had been having some dissatisfaction because of how he felt his supervisor was treating him. He was also upset by the fact that his October 13 paycheck had not been delivered to him after his transfer from the maintenance department to the housekeeping department; however, he had not gone to human resources to inquire as to his paycheck situation. On October 20 the claimant reported for work and was in a storeroom area preparing to begin his duties. His supervisor came into the area, possibly to discuss with the claimant a concern about some voice mails left on the supervisor's phone. The claimant felt that the supervisor was glaring at him, and while he was looking at the supervisor, the supervisor gave the claimant "the finger." The claimant became more upset, and decided to leave the area before he said or did something inappropriate. As he started away, the supervisor came toward him and made an attempt to grab the claimant by the nape of the neck. The claimant got away, and decided to quit, and headed away through a tunnel. He met a security guard on the way out, and told him he was quitting.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit for 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(4) provides:

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:

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

The delay in the claimant's check, where he had not taken action to check with human as to finding the check, does not establish good cause for quitting. However, in a quit situation, all stated reasons for quitting must be considered to determine whether any of the reasons might have constituted good cause. Taylor v. Iowa Department of Job Service, 362 N.W.2d 534 (Iowa 1985). Having a supervisor give an employer "the finger" and attempt to grab them by the nape of the neck would be good cause for quitting. The employer provided second-hand testimony denying that the supervisor had acted this way toward the claimant. However, no first-hand

witness was available at the hearing to provide testimony to the contrary under oath and subject to cross-examination. Without that information being provided first-hand, the administrative law judge is unable to ascertain the credibility of the supervisor. Under the circumstances, the administrative law judge finds the claimant's first-hand information more credible.

The claimant has demonstrated that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. EAB, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). Benefits are allowed.

DECISION:

The representative's November 16, 2004 decision (reference 01) is reversed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

ld/b