

**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**

**DENNIS DUTCHER
912 N 12TH ST
CLEAR LAKE IA 50428**

**KRAUS FOODS INC
DAIRY QUEEN
PO BOX 771
ALBERT LEA MN 56007**

**Appeal Number: 05A-UI-08186-BT
OC: 07/17/05 R: 02
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:

Dennis Dutcher (claimant) appealed an unemployment insurance decision dated August 5, 2005, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Dairy Queen (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 25, 2005. The claimant participated in the hearing. The employer participated through Jeff Wieland, Administration/Human Resources Director.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time cook from April 13, 2005 through June 24, 2005. He voluntarily quit his employment because he felt he was not being treated fairly. He was told he could get a chance to be a supervisor but because he had tattoos on his forearms, he was told he needed to wear a long white shirt. The claimant bought a long white shirt and wore it to work only to be told that it needed to be a Dairy Queen shirt or have the Dairy Queen logo on it. The claimant was angry that he was not initially told it had to be a Dairy Queen white shirt. He then worked on June 24, 2005 and they were short that night. The manager came into the restaurant and the claimant asked if he could help out but the manager refused. The claimant quit at the end of the night by crossing out his name on the schedule and writing next to it that he was done.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated his intent to quit and acted to carry it out by crossing out his name on the schedule and writing next to it that he was done.

The claimant quit his employment because of mild frustration and he failed to talk to his supervisor before quitting, thus, eliminating any possibility of improvement. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated August 5, 2005, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

sdb/pjs