

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

STANLEY S THORSON  
3953 WINONA WAY APT 4  
SIOUX CITY IA 51104

WELLS DAIRY INC  
PO BOX 1310  
LE MARS IA 51031-1310

Appeal Number: 06A-UI-00030-RT  
OC: 12-04-05 R: 01  
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, 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 96.5-1 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Stanley S. Thorson, filed a timely appeal from an unemployment insurance decision dated December 28, 2005, reference 01, denying unemployment insurance benefits to him. After due notice was issued, a telephone hearing was held on January 18, 2006, with the claimant participating. Wendy Lee, Generalist, participated in the hearing for the employer, Wells Dairy, Inc. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant. When the administrative law judge attempted to call the employer's witness at 3:03 p.m., he reached the voicemail for that witness. He left a message that he was going to proceed with the hearing and if the employer wanted to participate someone needed to call before the hearing was over

and the record was closed. The administrative law judge reached the claimant and began the hearing. The employer's witness called the Appeals Section at 3:08 p.m. and confirmed the telephone number. The administrative law judge called her back at 3:10 p.m. and she participated in the balance of the hearing. At the time Ms. Lee called, the administrative law judge had taken no evidence.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer as a full time team facilitator from September 19, 2005 until he voluntarily quit on November 29, 2005. On that day the claimant called his supervisor, Sonya Stroman and in a voice mail message told her that he was quitting because he could not handle "it" anymore, meaning the job. The claimant was hired as a team facilitator which is like a team leader position. The claimant was aware of this when hired. When the claimant interviewed, the employer's witness, Wendy Lee, Generalist, participated in the claimant's interview. The claimant was informed of what the job entailed and the employer went over with the claimant a detailed job description involving a variety of duties. At that time the claimant stated that he felt he was capable of the job. The claimant was not asked to do anything that he was not told about during the interview. Nevertheless when the claimant began to actually work on the job he found that he could not "handle it" and eventually quit. The claimant testified that he could not handle the pressure. The claimant conceded that he was told what the job entailed when hired and further told that it takes time to learn it. The employer was not dissatisfied with the claimant's work. The claimant testified that he thought he was failing the employer but the employer did not feel that way and thought the claimant was doing a good job. In fact, when the claimant expressed concerns to Ms. Stroman two or three weeks before his quit, Ms. Stroman told the claimant that he was doing a good job. Nevertheless, the claimant quit. The claimant had been a supervisor at another company and he thought that this would be a good move but he was not used to the way things were done at the employer's.

The claimant testified that he also quit because some of the co-workers resented him in as much as he was being paid more. When asked to elaborate the claimant would only state that some of the co-workers did not help him learn the job. Although the claimant believed they were supposed to help him learn the job they were not helping him learn the job. The claimant conceded that they did not say anything to his face but simply just did not help him learn his job. The claimant felt that there was too much pressure and stress and this contributed to his quit. The claimant did express concerns as noted above two or three weeks before his quit to Ms. Stroman. Ms. Stroman informed the claimant that she thought he was doing a good job and, in regards to his concerns about co-workers, knew that some would "buck" him but to keep working at it.

#### REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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 24.25(6)(21)(27) & (33) provide:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(6) The claimant left as a result of an inability to work with other employees.

(21) The claimant left because of dissatisfaction with the work environment.

(27) The claimant left rather than perform the assigned work as instructed.

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The parties agree, and the administrative law judge concludes, that the claimant left his employment voluntarily. The parties disagree slightly as to the date that he did so. Although it makes little difference here, the administrative law judge concludes that the claimant left his employment voluntarily on November 29, 2005 when he so informed his supervisor, Sonya Stroman in a telephone message. The issue then becomes whether the claimant left his employment without good cause attributable to the employer.

The administrative law judge concludes that the claimant has the burden to prove that he has left his employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet his burden of proof to demonstrate by a preponderance of the evidence that he left his employment with the employer herein with good cause attributable to the employer. The claimant testified that he left his employment because he could not handle the job and the pressure and stress were too much for him. However, the employer's witness, Wendy Lee, Generalist, credibly testified that when the claimant was interviewed for the position he was aware that it would be a team facilitator position which is like a team leader and was further informed about what the job entailed. The claimant even concedes as much. Ms. Lee also credibly testified that a detailed job description was reviewed with the claimant including a variety of duties. Ms. Lee further credibly testified that the claimant said he felt he was capable of the job. Ms. Lee finally testified that the claimant was not asked to do anything that was not covered in this interview or on the job description. The claimant basically concedes as much. The claimant testified that he had to do a lot of different things and he could not handle the pressure or the stress. The claimant further testified that he had been a supervisor at another company and he thought this was a good move but that he was simply not used to the way things were done at the employer's. The claimant also testified that he thought he was failing the employer but the employer did not feel that way. Even the claimant conceded that his

supervisor told the claimant that she thought he was doing a good job and Ms. Lee credibly testified that the employer was satisfied with the claimant's work. Leaving employment voluntarily because of dissatisfaction with the work environment or rather than perform the assigned work as instructed or because the claimant felt that his job performance was not to the satisfaction of the employer even though the employer had not requested the claimant to leave, is not good cause attributable to the employer.

The claimant also testified that he was resented by some co-workers because he was being paid more. When asked how this resentment was manifested, the claimant said simply that his co-workers would not help him learn although they were supposed to. The claimant conceded that the co-workers did not say anything to his face but simply maintained that they would not help him learn his job. The administrative law judge is not convinced that it is the co-workers' responsibility to help the claimant learn his job especially when the claimant is acting as some kind of team leader. In any event, the administrative law judge concludes that there is not a preponderance of the evidence that even if the workers were supposed to help him learn and some did not that this made his working conditions unsafe, unlawful, intolerable or detrimental. There is also not a preponderance of the evidence that the claimant was subjected to a substantial change in his contract of hire. Further, leaving work voluntarily because of an inability to work with other employees is not good cause attributable to the employer. The bottom line here is that after being informed of what the job entailed and accepting the position the claimant discovered that the job was more than he wanted or could handle. The administrative law judge does not believe that the claimant was misled by the employer about the job. Simply disliking the job or being unable to handle it when the employer is satisfied with the claimant's progress is not good cause attributable to the employer for a quit.

In summary, and for all the reasons set out above, the administrative law judge concludes that the claimant left his employment voluntarily effective November 29, 2005, without good cause attributable to the employer and, as a consequence, he is disqualified to receive unemployment insurance benefits. The administrative law judge is not without sympathy for the claimant but is forced to conclude here that the claimant's quit was because of the claimant and not because of the employer. Unemployment insurance benefits are denied to the claimant until, or unless, he requalifies for such benefits.

#### DECISION:

The representative's decision of December 28, 2005, reference 01, is affirmed. The claimant, Stanley S. Thorson, is not entitled to receive unemployment insurance benefits, until, or unless, he requalifies for such benefits, because he left his employment voluntarily without good cause attributable to the employer.

kkf/tjc