

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEWAYNE A STRONG
Claimant

APPEAL NO. 07A-UI-10592-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES MOINES BOLT SUPPLY INC
Employer

**OC: 09/30/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 9, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on December 3, 2007. Claimant participated. Employer participated by Brenda Burgett, Human Resource Manager, and Nick Miller, Chief Financial Officer. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on October 17, 2007. Claimant sustained a work-related injury May 2, 2007. Claimant was released to return to work October 3, 2007. The treating doctor imposed a 15-pound lifting restriction. Employer offered claimant full-time work October 8, 2007 as a forklift driver. Claimant refused the job without trying the activity. Claimant was then offered janitorial work at ten hours per week October 15, 2007. Claimant worked two days at two hours per day on the janitorial job and started to call in again. Claimant returned to the doctor to complain about the janitorial work but did not receive a change in work restrictions. Claimant continued to call in absent due to the work injury. Claimant failed to properly report his absences on October 18, 2007, October 19, 2007 and October 23, 2007. Claimant was given a final warning for absenteeism and calling in late on October 24, 2007. Claimant refused to sign the warning. Claimant then called in late October 26, 2007, October 30, 2007, and November 2, 2007. Claimant did not work between October 18, 2007 and November 5, 2007, notwithstanding a release to light duty work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of job abandonment. Claimant was warned that his failure to

come in or call in for work was placing his job in jeopardy. Claimant had a work restriction in place that the employer was willing to accommodate. Claimant, instead of coming in for further work, continued to call in. Claimant had a second doctor's appointment and was unable to have his work restriction changed. After the doctor's appointment, he still refused to return to work. The continued absenteeism after October 17, 2007 is job abandonment. Benefits withheld.

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.

DECISION:

The decision of the representative dated November 9, 2007, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw