

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

JERRY L EVENSON JR
206 – 13TH ST N
NORTHWOOD IA 50459-1208

MASON CITY RECYCLING CENTER LTD
PO BOX 1534
MASON CITY IA 50402-1534

Appeal Number: 06A-UI-01556-DWT
OC: 01/08/06 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 Quit

STATEMENT OF THE CASE:

Jerry L. Evenson, Jr., (claimant) appealed a representative's February 2, 2006 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Mason City Recycling Center Ltd. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 27, 2006. The claimant participated in the hearing. Dean Hess, the president, 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 his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The employer rehired the claimant on September 26, 2005. The claimant worked full time packaging and bagging insulation. During his employment, the claimant tried one time to talk to Hess after insulation bags fell on top of the claimant. When the claimant attempted to talk to Hess, he was busy and could not talk to the claimant at that moment. The claimant did not try to talk to Hess again.

On December 30 or 31, the claimant became upset at work because a co-worker had a BB or pellet gun at work. The co-worker shot the gun at the claimant. The claimant saw who had the gun. Later, this co-worker admitted he had accidentally shot the BB gun at work and apologized to the claimant. That same day, the claimant believed co-workers drank liquor at work. The claimant did not say anything to Hess about the drinking or the BB gun incident.

On January 3, 2006, the claimant came to pick up his paycheck. At that time he told Hess he had quit because he was trying to find his daughter in New Orleans and because of problems he had with co-workers. The employer did not ask the claimant to explain the problems he had with co-workers.

The employer knew nothing about a BB gun at work or that anyone drank alcohol at work. If the Hess had known this, he would have disciplined or discharged the employees involved in these actions. The employer assumed the claimant quit because he had recently moved 30 miles from work and sold his vehicle making it difficult for him to get to work. When the claimant worked for the employer before, he had abandoned his job when he moved 30 miles from work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The evidence establishes the claimant quit his employment. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant voluntarily quits employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). However, if a claimant quits because he does not like the work environment, this does not constitute good cause for quitting. 871 IAC 24.25(21).

Even though Hess was a busy person, it is extremely difficult to understand why the claimant did not report the BB gun or drinking incident to him. While having a BB gun at work or drinking at work is not appropriate or condoned, the claimant failed to give the employer an opportunity to correct or address problems or issues the claimant had with his co-workers. Since the claimant had previously quit when he moved 30 miles from work and had recently sold his vehicle and moved 30 miles from work, a preponderance of the evidence indicates the claimant planned to quit before his last day of work. The fact the claimant did not report the problems

with his co-workers to Hess even when he picked up check suggest that these incidents did not occur. A preponderance of the evidence establishes the claimant quit because he moved to another location and it was difficult for him to get to work after moving 30 miles away. While the claimant established compelling personal reasons for quitting, he did not quit for reasons that qualify him to receive unemployment insurance benefits. 871 IAC 24.25(3) and (30). Therefore, as of January 8, 2006, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's February 2, 2006 decision (reference 02) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of January 8, 2006. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/tjc