

**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**

**BRIAN G KILBURG  
718 7<sup>TH</sup> AVE S  
CLINTON IA 52732**

**BENTLER EQUIPMENT INC  
2145 CAMANCHE AVE  
CLINTON IA 52732**

**Appeal Number: 04A-UI-10091-MT  
OC: 08/15/04 R: 04  
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, 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-a – Voluntary Quit/Better Employment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 8, 2004, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 12, 2004. Claimant participated. Employer participated by Lance Reimann, Store Manager. Exhibits One and A were admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on August 16, 2004. Claimant quit for

better employment. Claimant was to start August 16, 2004. The new employer changed the start date on claimant to August 23, 2004 after claimant had resigned.

REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether claimant quit for good cause attributable to employer. The administrative law judge holds that the evidence has established that claimant voluntarily quit without good cause attributable to employer when claimant terminated the employment relationship because of better employment. Claimant was delayed in his start date due to the new employer. Claimant did work for the new employer.

Benefits are allowed. Wage credits shall not be charged to this employer's account.

Iowa Code Section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

DECISION:

The decision of the representative dated September 8, 2004, reference 01, is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible. Employer's account shall not be charged for benefits paid on this claim.

mdm\s