

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS J STAFFORD
Claimant

APPEAL NO: 13R-UI-12881-ST

**ADMINISTRATIVE LAW JUDGE
AMENDED DECISION**

IOWA EPS PRODUCTS INC
Employer

**OC: 08/12/12
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(2) – Unsafe Working Conditions
871 IAC 24.26(4) – Intolerable/Detrimental Working Conditions

STATEMENT OF THE CASE:

The claimant appealed a department decision dated September 5, 2012, reference 01, that held the claimant voluntarily quit without good cause attributable to the employer on August 17, 2012, and benefits are denied. A hearing was held on October 3, 2013. The claimant participated. Andy Lineberry, General Manager, participated for the employer. An Administrative law judge (ALJ) decision was issued October 4 that affirmed the department decision and denied unemployment benefits. Claimant appealed.

The Employment Appeal Board (EAB) on December 14 affirmed the ALJ decision. Claimant filed a petition for judicial review in State District Court. The Court issued a Ruling on May 22, 2013 that Ordered: the decision of the EAB is reversed, and this case is remanded to the agency for such proceedings as are required. The EAB remanded this matter in accordance with the Court decision to Iowa Workforce Development (UI Appeals) to allow it to make appropriate factual findings on the record already made.

This matter was scheduled for December 10, 2013 before the ALJ who held the October 3, 2012 hearing. The purpose of the amended decision in this matter was to make appropriate factual findings based on the record.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record finds: The claimant worked for the employer as a full-time CNC machine operator from August 17, 2008 to August 17, 2012. The claimant's direct supervisor was Chuck Cataldo.

During claimant's employment, co-workers brought forklifts, carts and dollies through his work area. He was almost struck by this equipment on several occasions. Although his machine had

guards at one time to protect him, they had broken off. He made replacement guards from cardboard to protect him. On claimant's last day, a spring broke, bounced off his makeshift guard, and ricocheted passed his head. Claimant offered photographic evidence of his machine and makeshift guards.

Claimant complained for years about the lack of guards to employees and management personnel. The guards he made were visible. Although the employer assured claimant they would be replaced, they were not.

Prior to quitting, the employer had told claimant that the business financial condition was improving and it would consider his pay raise request.

Claimant quit his job and walked off after the spring broke loose incident. He did tell the employer he would file an OSHA complaint.

REASONING AND CONCLUSIONS OF LAW:

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 24.26(2) and (4) provide:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

The administrative law judge concludes the claimant voluntarily quit with good cause attributable to her employer due to unsafe, intolerable and detrimental working conditions on August 17, 2012.

Whenever an employee quits employment for different reasons, all of the reasons for quitting are considered to determine whether any one reason is for good cause attributable to the employer. Taylor v. IDJS, 362 N.W.2d 534 (Iowa 1985). While claimant had an issue with the employer about receiving a pay increase, he also voiced safety concerns and working conditions.

The claimant put the employer on notice of an unsafe working condition due to its failure to replace guards on his machine. His replacement cardboard guards are clearly visible, so the employer cannot refute the safety issue. He complained to direct supervisor Cataldo and the employer did not offer him as a witness to refute the testimony.

Claimant experienced other safety issues such as co-workers driving equipment in his work area that nearly struck him. On his last day he was nearly struck by an object. His decision to quit was in response to this incident rather than the employer failing to act on a pay increase.

DECISION:

The department decision dated September 5, 2012, reference 01, is reversed. The claimant voluntarily quit with good cause attributable to his employer on August 17, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css