

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

GREGORY J SCHOLL
PO BOX 142
ROCKWELL IA 50469

CRESCENT PARK CORP
9817 CRESCENT PK DR
WEST CHESTER OH 45069 3867

Appeal Number: 05A-UI-05723-DWT
OC: 01/02/05 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:

Gregory J. Scholl (claimant) appealed a representative's May 17, 2005 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Crescent Park Corporation (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 June 15, 2005. The claimant participated in the hearing. Dena Brown, Mark Seidel and John Prieskorn 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, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on February 28, 2005. The employer hired the claimant to work as a full-time forklift operator.

During the course of the claimant's employment, the employer noticed the claimant repeatedly made the same mistakes. Seidel became frustrated with the claimant's repeated mistakes. On April 21, Seidel told the claimant to keep focused. In frustration Seidel told the claimant, "Jesus Christ, I've had enough of you!" The claimant did not say anything to Seidel and worked the rest of his shift without any incident.

On April 22, Seidel was not at work, but co-workers saw the claimant at the beginning of his shift pick up all his personal items and leave. Even though the claimant was scheduled to work after April 21 he did not. When Seidel learned the claimant had retrieved all his personal belongings, he contacted Prieskorn, the site superintendent. Prieskorn unsuccessfully attempted to contact the claimant by phone to find out why he did not work on April 22, 2005. The claimant returned Prieskorn's call on April 26. By the time the claimant talked to Prieskorn, the employer no longer considered the claimant an employee because he had abandoned his employment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The facts establish the claimant initiated the separation by picking up all his personal property on April 22 and failed to work after April 21, 2005. Even though the claimant did not tell the employer he was quitting, his actions demonstrate his intent to 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 without good cause when he leaves employment after he has been reprimanded. 871 IAC 24.25(28). The claimant asserted Seidel discharged him on April 21. This assertion is not credible because Seidel confronted the claimant about problems about midway during the claimant's shift and the claimant worked until the end of his shift. The employer expected the claimant to return to work after April 21. When the claimant did not return to work, Seidel contacted Prieskorn who tried to contact the claimant right away. Since the claimant did not initially contact Prieskorn, the evidence does not establish that the claimant took any steps to resolve any problems he had with Seidel. By the time the claimant talked to Prieskorn, his employment had already ended based on the claimant's failure to work after April 21.

The claimant may have had compelling personal reasons for abandoning his job, but the claimant's reasons for quitting do not qualify him to receive unemployment insurance benefits. As of April 24, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's May 17, 2005 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 April 24, 2005. 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/pjs