

**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**

**DENIS CAUSEVIC
110 OAKWOOD VILLAGE
CORALVILLE IA 52241**

**BANES CONSTRUCTION INC
4905 LONGVIEW DR
FAIRFAX IA 52228-9770**

**Appeal Number: 05A-UI-06978-CT
OC: 12/26/04 R: 03
Claimant: Respondent (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, 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:

Banes Construction, Inc. filed an appeal from a representative's decision dated June 29, 2005, reference 03, which held that no disqualification would be imposed regarding Denis Causevic's separation from employment. After due notice was issued, a hearing was held by telephone on July 27, 2005. Mr. Causevic participated personally. The employer participated by Anna Shakespeare, Office Administrator; Jackie Cover, Office Personnel; Sean Pospisil, Wall Crew Foreman; and Sheski Ukshirtaj, Laborer. Zeljka Krvavica participated as the interpreter.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Causevic was employed by Banes Construction, Inc.

from April until June 14, 2005 as a full-time laborer. He voluntarily quit the employment because a coworker referred to him as a "gypsy." Mr. Causevic is Bosnian and the term "gypsy" is considered a derogatory term in his native country. He did not complain to the employer about the name-calling prior to quitting. Continued work would have been available if Mr. Causevic had not quit.

Mr. Causevic has received a total of \$1,688.00 in job insurance benefits since filing his additional claim effective June 12, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Causevic was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Causevic quit because a coworker referred to him as a "gypsy." However, he never complained to the employer so that the employer would have a reasonable opportunity to correct the problem that was causing him to quit. Even if a supervisor overheard others refer to him as a "gypsy," the employer would have no way of knowing that the term was considered derogatory or that Mr. Causevic was offended by it.

Because Mr. Causevic quit without giving the employer an opportunity to try to stop the conduct that was causing him to quit, the administrative law judge concludes that the quit was not for good cause attributable to the employer. Accordingly, benefits are denied. Mr. Causevic has received benefits since filing his additional claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated June 29, 2005, reference 03, is hereby reversed. Mr. Causevic voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Causevic has been overpaid \$1,688.00 in job insurance benefits.

cfc/kjw