

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARTON D KANNEGIETER
Claimant

APPEAL NO. 12A-UI-10981-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**POET BIOREFINING – ASHTON
OTTER CREEK ETHANOL**
Employer

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

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Barton Kannegieter (claimant) appealed a representative's September 4, 2012 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Otter Creek Ethanol (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 4, 2012. The claimant participated personally. The employer participated by Ken Osmonson, General Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on January 19, 2004, as a full-time controller. The claimant told the employer that the company's valuation of assets was incorrect. The claimant was being asked to use those figures in company documents and that would expose the claimant to liability. On July 30, 2012, the claimant notified the employer he was resigning effective August 10, 2012. The claimant told the employer that he was quitting because of an increased workload and poor pay. The real reason the claimant quit was because he thought the employer was asking him to engage in unethical conduct. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

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(4) provides:

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:

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

The law presumes a claimant has left employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that he intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). In this case the claimant did notify the employer that he disagreed with the asset evaluation. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's September 4, 2012 decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs