

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY D BOHLEN
Claimant

APPEAL NO. 11A-UI-10573-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OLNEY ELECTRIC LLC
Employer

**OC: 07/03/11
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Larry Bohlen, filed an appeal from a decision dated August 5, 2011, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on September 2, 2011. The claimant participated on his own behalf and was represented by John Titler. The employer, Olney Electric, participated by General Manager Duane Olney, Apprentice Derek Duncan and Owner Stephanie Olney.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Larry Bohlen was employed by Olney Electric from August 30, 2010 until May 6, 2011 as a full-time electrician. He was hired as a licensed journeyman electrician at \$18.00 per hour. He had allowed his license to lapse and the employer discovered this around the time of a staff meeting on May 5, 2011. The next day Owner Stephanie Olney informed the claimant his wage was going to be reduced because he had allowed his license to lapse. Regulations require a certain proportion of licensed to unlicensed electricians on the job sites. No determination had been made regarding the new wage level but the claimant said he could not continue to commute for a lesser wage.

The claimant also was unhappy he had received a writing warning on April 29, 2011, about excessive breaks. He felt it was unjustified because the only reason he was taking more breaks is because his hands were hurting. Mr. Bohlen had been injured on the job and had a two-pound lifting restriction. General Manager Duane Olney had told him he was the best judge of whether he was working within those restrictions. The claimant did not discuss this concern with Ms. Olney when they talked about his license on May 6, 2011, but he elected not to return to work after that, although he did not notify Ms. Olney of his decision to quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 24.25(28), (30) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(28) The claimant left after being reprimanded.

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

The claimant's decision to quit was based on two basic factors. He was unhappy he had been given a reprimand on April 29, 2011. Under the provisions of the above Administrative Code section, this does not constitute good cause attributable to the employer for quitting.

The second factor was the reduction in his wage. The administrative law judge considers that also does not constitute good cause attributable to the employer for quitting. Mr. Bohlen had been hired as a licensed journeyman electrician but allowed his license to lapse. He was therefore not entitled to the same wage as he did not meet the necessary criteria for his job duties. The employer did not state what his new wage would be as no decision had been made on that as of the time of the conversation on May 6, 2011.

The record establishes the claimant did not have good cause attributable to the employer for quitting and he is disqualified.

DECISION:

The representative's decision of August 5, 2011, reference 01, is affirmed. Larry Bohlen is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs