

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVE L COLLIER
Claimant

APPEAL NO. 06A-UI-11339-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PRAIRIE CONSTRUCTION COMPANY
Employer

**OC: 08/27/06 R: 01
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Dave Collier, filed an appeal from a decision dated November 20, 2006, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on December 12, 2006. The claimant participated on his own behalf. The employer, Prairie Construction, participated by President Frank Schuman and General Superintendent Tom Schroeder.

ISSUE:

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

FINDINGS OF FACT:

Dave Collier was employed by Prairie Construction from September 5 until October 18, 2006. He was a full-time construction worker. His last day of work was Friday, October 13, 2006, and he was a no-call/no-show to work after that date.

The claimant had brought a complaint to the attention of his foreman, Ron Bauer, regarding another employee he claimed was deliberately running into him with carts and materials, and bumping the ladder where he would be working. Mr. Bauer told him to resolve the matter with his co-worker because he had not seen anything personally. The claimant was dissatisfied with this recommendation and elected not to return to work after that date. He did not inform anyone of this decision, nor did he attempt to talk to General Superintendent Tom Schroeder about his complaint. He automatically assumed it would not do any good and simply stopped coming to work.

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 24.25(6) 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 section 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 section 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:

- (6) The claimant left as a result of an inability to work with other employees.

The claimant quit because he felt his co-worker was going out of his way to "run into" him with various objects. He was dissatisfied with the recommendation of his foreman that he "work it out" with the other person and decided not to come back. The record establishes the claimant made no attempt to contact the general superintendent or the president of the company with his concerns. He therefore did not give the employer an adequate opportunity to resolve the problem and his decision to quit is therefore without good cause attributable to the employer. He is disqualified.

DECISION:

The representative's decision of November 20, 2006, reference 02, is affirmed. Dave Collier 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