

**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**

**BEN D ANDERSON
BLDG 3 APT 7
1940 NW 82ND ST
CLIVE IA 50325**

**THE CBE GROUP INC
PO BOX 900
WATERLOO IA 50701 0900**

**Appeal Number: 04A-UI-10571-H2T
OC: 08-29-04 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 Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 27, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 20, 2004. The claimant did participate. The employer did participate through Mary Phillips, Senior Vice President of Human Resources and (representative) Tim Cira, Director of Operations for the Des Moines. Employer's Exhibit One was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a recovery specialist full time beginning March 12, 2001 through July 31, 2004 when he voluntarily quit. On July 17, 2004 the claimant was to be to work at

7:00 a.m. and he did not arrive at work until 9:07 a.m. John Clark, the claimant's direct supervisor, told him that he was going to be written up and reprimanded for being late to work on July 17, 2004. Since it was to be the claimant's third write up for being late to work in a twelve month period, Mr. Clark told him that come Monday, it was likely he would be discharged. The claimant admitted at hearing that his second write up warned him that his job was in jeopardy and that one more occurrence or instance or tardiness would result in his termination. The claimant admits that he knew he was going to be reprimanded by Mr. Clark for being late to work. Although the claimant disputes that he was even required to work that day and the validity of the proposed reprimand, he did voluntarily resign because he did not want his separation to appear as a discharge to future prospective employers. The claimant chose to resign rather than be reprimanded for being late to work again.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without 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 24.25(28) 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:

- (28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2 (amended 1998).

The claimant's decision to quit after having been reprimanded was not a good-cause reason attributable to the employer for leaving. Benefits are denied. The claimant's decision to quit rather than have the employer reprimand him for being late to work again is not good cause attributable to the employer. Benefits are denied.

DECISION:

The September 27, 2004, reference 01, decision is affirmed. The claimant voluntarily left his employment without 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 benefit amount, provided he is otherwise eligible.

tkh/tjc