

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PHILLIP KYLER SHEETS
Claimant

APPEAL NO. 08A-UI-05950-B

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAYTAG DAIRY FARMS INC
Employer

**OC: 05/25/08 R: 02
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Phillip Kyler Sheets (claimant) appealed an unemployment insurance decision dated June 19, 2008, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Maytag Dairy Farms, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Des Moines, Iowa, on July 16, 2008. The claimant participated in the hearing with roommate and former employee Jeremy Berndt. The employer participated through Robert Wadzinski, Plant Manager; Ronald Vander Schel, Assistant Plant Manager; Lori Zylstra, Human Resources Director; and Attorney Joseph Cacciatore. Employer's Exhibits One, Two, and Three were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired as a part-time temporary production employee on December 14, 2006 and went full-time in approximately February 2007. He became a crew leader at the end of the summer and was paid 50 cents more per hour for those extra duties. The claimant stopped acting as a crew leader as of May 6, 2008. On that date, he walked off his job and "decided to do a task he felt like doing." He told the employer that he was not going to "wash and smudge" and did not care what anyone said. The claimant had been demonstrating a negative attitude that was affecting the company and his co-workers. A crew leader is responsible for making sure all tasks are completed on a daily basis before leaving work. The claimant was leaving work before the work was done and other employees had to stay longer to get the job finished. The employer gave the claimant some time before acting to take away his 50 cent premium in the hopes that he would pick up his crew leader duties.

When he failed to do so, the plant manager and assistant plant manager called him into the office on May 23, 2008 at 3:20 p.m. The claimant was advised his 50 cent premium was going to be

eliminated, as he was no longer performing crew leader duties. The claimant informed the employer that was not acceptable as he had bills to pay. He became disrespectful towards both individuals and said that he is “fucking leaving.” The assistant plant manager told him he would not be allowed to return if he left and the claimant responded by stating they could go “fuck” themselves and flipped up his middle finger as he walked away. The managers then watched the claimant go to his locker and retrieve his personal property before leaving the facility.

The claimant returned to work on the following Monday and realized that his time card was missing when he went to clock in. He asked the assistant plant manager where his time card was and was told that he had quit as of last Friday. The claimant denied quitting and asked if he was fired. The assistant plant manager eventually agreed that the claimant was fired.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

The claimant denies that he quit, but his actions confirm otherwise. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant became angry on May 23, 2008 that his crew leader premium was being eliminated since he was no longer working as a crew leader. He demonstrated his intent to quit when he told the employer he was “fucking leaving” and cleaned out his personal locker. The claimant did this even after the assistant plant manager told him he could not return if he left. He carried out the intent to quit when he told the plant manager and assistant plant manager to go “fuck” themselves and flipped them his middle finger as he walked away.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated June 19, 2008, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw