

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANDREW J TOWNSEND**  
Claimant

**WEST LIBERTY FOODS LLC**  
Employer

**APPEAL NO: 12A-UI-04953-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/25/12**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.26(21) – Quit or be Fired  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated April 18, 2012, reference 01 ,that held he voluntarily quit without good cause on March 19, 2012, and benefits are denied. A telephone hearing was held on May 22, 2012. The claimant participated. The employer elected not to participate in the hearing.

**ISSUE:**

Whether the claimant voluntarily quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the claimant, and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time cutter from April 11, 2011 to March 23, 2012. The claimant suffered a fractured wrist in a non-job-related injury on March 24. His wrist was placed in a cast. He notified the employer HR department on Monday March 26 about the injury. He told HR that his doctor had not restricted him from work due to the injury.

HR advised claimant he would not be allowed to work on the production floor wearing a cast on his wrist. He was not offered FMLA or regular medical leave because he had not worked for one year. The employer gave claimant the option to quit (resign) with an option for re-hire or be terminated without the option. Claimant elected to resign.

Claimant began work at Target on April 18 while still wearing the cast, as he had no work restriction. The cast has been removed and he is still working at Target.

The employer failed to respond to the hearing notice.

## **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 24.26(21) 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:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The administrative law judge concludes that the claimant was involuntarily terminated when given the choice to quit or be terminated. A challenge to quit or be fired is not considered a voluntarily leaving, and it is a good cause for quitting employment.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The administrative law judge further concludes the claimant is able and available for work. While the employer would not permit an employee to wear a cast while working, claimant had no such doctor-imposed work restriction. The fact he began work at Target while wearing the cast shows he was able and available for some gainful employment.

**DECISION:**

The department decision dated April 18, 2012, reference 01, is affirmed. The claimant voluntarily quit with good cause attributable to the employer on March 26, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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