

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

YANQUIEL LINARES
Claimant

APPEAL NO: 13A-UI-07890-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SARA LEE CORP
Employer

OC: 05/26/13
Claimant: Respondent (2/R)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed a representative's June 25, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because he voluntarily quit his employment for reasons that qualify him to receive benefits. The claimant participated in the hearing. Tim Steffen, the human resource manager, Diane Post, a quality control technician, Nith Young, the quality control supervisor, Dave Schmitz, the plant manager, and Edith Hodgell, a quality control lead appeared on the employer's behalf. Gisella Young interpreted the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The claimant started working as a quality control technician for the employer in September 2012. Around Memorial Day, the employer's facility had a sporadic power outage two days. After the second day the power had been out, but had returned Hodgell asked the claimant several times to perform an E coli test. He refused and told her that because it was 15 minutes past the random audit, he would write on the form "Plant down." Even though Hodgell asked the claimant several times to do the test, she incorrectly assumed he eventually did the test. The claimant did not do the test. When the claimant refused to do the test, he had not indicated that he felt he was not safe performing the test. The next morning, during a staff meeting, Hodgell talked about an ammonia leak that had been discovered. The claimant considered her comment that the ammonia had not affected her inappropriate and confirmed in his mind that she was not safety conscious. The claimant went to the human resource department to report his safety concerns so his concerns could be investigated.

The next day, May 29, the employer gave the claimant a warning for refusing Hodgell's directions to do an E coli test. After the claimant received the warning, he stated that the warning was not fair. He then asked to transfer to another department. The claimant learned

he was not eligible for a transfer until he worked a year for the employer. The claimant then resigned. When he resigned he indicated he quit because he did not feel safe.

The claimant established a claim for benefits during the week of May 26, 2013.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits without good cause when he leaves after he receives a reprimand. 871 IAC 24.25(28). The law also presumes a claimant quit with good cause if he leaves because of intolerable or detrimental working conditions. 871 IAC 24.26(4).

The claimant's assertion that Hodgell asked him to perform an E coli test in the dark and in unsafe working conditions is not supported by the evidence. The only reason the claimant gave the employer for failing to follow Hodgell's instruction to perform the test was that it was beyond the 15-minute to do the test. In late May the claimant did not indicate he would not do the test because he did not feel safe. The evidence does not establish that the claimant quit because of intolerable or detrimental working conditions. Instead, the evidence indicates he quit immediately after he received a warning that he did not believe was fair.

The claimant established personal reasons for quitting, but his reasons do not qualify him to receive benefits. As of May 26, 2013, the claimant is not qualified to receive benefits.

The issue of overpayment of benefits and whether he will be required to repay any overpayment will be remanded to the Claims Section to determine.

DECISION:

The representative's June 25, 2013 determination (reference 01) is reversed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 26, 2013. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The issue of overpayment and whether the claimant is required to repay any benefits he may have received since May 26, 2013, is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css