

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERIK BEDOY
Claimant

APPEAL NO: 11A-UI-11262-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT PORK COMPANY
Employer

OC: 07/10/11
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Erik Bedoy (claimant) appealed an unemployment insurance decision dated August 17, 2011, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Swift Pork Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 21 and September 22, 2011. The claimant participated in the hearing. The employer participated through Aureliano Diaz, Acting Human Resources Manager. Employer's Exhibit One was 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 from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time stacker on third shift from March 1, 2010 through July 14, 2011. The employer's attendance system provides that employees are terminated if they accumulate nine points. The claimant received written warnings for attendance on December 22, 2010; December 31, 2010; and July 6, 2011. He had eight attendance points on July 6, 2011. The claimant went home sick on July 8, 2011 and he called in sick on July 9, 2011.

When the claimant returned to work on July 11, 2011 and tried to clock in, his badge was rejected. A co-worker told him that he thought the claimant had too many attendance points. The claimant did not go in to talk to anyone in human resources until July 14, 2011. He met with Human Resource Manager Aureliano Diaz, said that he quit and filled out a JBS Exit Questionnaire. Question two of the questionnaire stated: "Was your decision to leave the Company influenced by any of the following?" There were several options to check and two

lines on which to write comments. The claimant checked health, supervision and return to school but did not write any additional comments.

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 had exceeded his attendance points and was subject to discharge but the employer had not completed the discharge before the claimant voluntarily quit his employment. 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 demonstrated his intent to quit and acted to carry it out by informing the human resources manager on July 14, 2011 that he was quitting his employment. He further carried out that intent when he filled out an exit questionnaire in which he stated that his decision to leave the company was influenced by health, supervision and a return to school.

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. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated August 17, 2011, 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/css