

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY L FANGMAN

Claimant

APPEAL NO. 11A-UI-00288-JT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ASSOCIATED MILK PRODUCERS INC

Employer

OC: 11/28/10

Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 4, 2011, reference 03, decision that denied benefits. After due notice was issued, an in-person hearing was held on March 2, 2011. Claimant participated. Steve Faust represented the employer and presented additional testimony through Alan Knipper. Exhibits 10, 14, A, B and C were received into evidence. The hearing in this matter was consolidated with the hearing in Appeal Number 11A-UI-00287-JT.

ISSUE:

Whether the claimant separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jeff Fangman was employed by Associated Milk Producers, Inc., (AMPI) as a full-time separating/receiving operator until December 1, 2010, when he voluntarily quit. Alan Knipper was Mr. Fangman's immediate supervisor, but Lead Man Dan Lincoln directed much of Mr. Fangman's daily work. Steve Faust was Plant Superintendent. On December 1, 2010, Mr. Faust and Mr. Knipper met to discuss Mr. Fangman's failure to perform one of his work duties on November 30, 2010. The two men decided to move forward with disciplining Mr. Fangman for his failure to complete the task. Mr. Fangman had received prior reprimands and, in light of the prior reprimands, the employer considered a discharge from the employment as one possible outcome of the disciplinary action. Mr. Faust communicated to the union stewards that Mr. Fangman would need to appear for a meeting that day and that in order to continue in the employment, Mr. Fangman would need to come to the meeting with the appropriate attitude and indicate his intention to perform duties as assigned in the future. Mr. Faust was leaning toward placing Mr. Fangman on a disciplinary probationary status in lieu of discharging him from the employment, but wanted to hear Mr. Fangman indicate his intention to comply with the employer's expectations. Mr. Faust shared this information with the union stewards so that they could share it with Mr. Fangman prior to the meeting. Mr. Faust then directed the union stewards to summon Mr. Fangman for the meeting. When the union stewards spoke to Mr. Fangman, Mr. Fangman indicated that he did not want to participate and

gave some vague indication that he did not feel well. The union stewards returned to Mr. Faust with this information. Mr. Faust told the union stewards that Mr. Fangman needed to appear for the meeting, as he was still on the clock and could not simply elect not to appear for the meeting.

When Mr. Fangman appeared for the meeting, he chose a chair and moved it to the corner of Mr. Faust's desk. Before Mr. Faust could discuss the proposed disciplinary action with Mr. Fangman, Mr. Fangman stood up, leaned over Mr. Faust's desk into Mr. Faust's personal space, shook his finger at Mr. Faust and said, "You motherfucker, I ought to punch you in the face. I can't remember everything I need to do all the time." Mr. Faust told Mr. Fangman that if there was one more outburst like that, the meeting would be over and Mr. Fangman's employment would be done. Mr. Fangman responded, "Fuck it! I Quit!" Mr. Fangman then left before the scheduled end of his shift. The meeting lasted less than two minutes before Mr. Fangman quit and left.

On December 2, 2010, Mr. Fangman called Mr. Faust to request his job back. Mr. Faust declined to reinstate Mr. Fangman. On December 2, 2010, Mr. Fangman saw his family doctor and obtained a note on a prescription pad that said, "was seen today with history of two day illness." The note does not specify an illness. The note is dated December 2, 2010.

Mr. Fangman had a personality conflict with Lead Man Dan Lincoln and viewed Mr. Lincoln's comments to him as harassment. Mr. Fangman had a personality conflict with the union stewards and viewed their comments to him as harassment. Mr. Fangman had a personality conflict with Mr. Faust and resented his exercise of authority as Plant Superintendent. Mr. Fangman's resentment of Mr. Faust was longstanding, as indicated by Mr. Fangman's written comment on a March 11, 2009 written reprimand: "Steve Faust is a piece of shit."

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Voluntary quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

Voluntary quits due to a personality difference with a supervisor, inability to get along with coworkers, or in response to a reprimand are presumed to be without good cause attributable to the employer. See 871 IAC 24.25(6), (22), and (28).

The weight of the evidence in the record establishes that Mr. Fangman voluntarily quit on December 1, 2010 in response to learning that he was about to be reprimanded. Mr. Fangman's quit was also based on his longstanding resentment of Mr. Faust's authority as plant manager, and personality conflicts he seems to have had with several of his coworkers. The weight of the evidence fails to support Mr. Fangman's assertions that he was being harassed in the workplace or that this had anything to do with his decision to leave the employment. The weight of the evidence indicates that Mr. Fangman created problems for himself in the workplace through his powerful resentment of others' authority. The weight of the evidence fails to support Mr. Fangman's implied assertion that he quit because he did not feel well. The weight of the evidence suggests instead that after Mr. Fangman summarily quit in anger, he soon realized his error and obtained a note from his doctor in an attempt to excuse his inexcusable behavior and get his job back.

The weight of the evidence establishes that Mr. Fangman voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Fangman is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Fangman.

DECISION:

The Agency representatives January 4, 2011, reference 03, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css