

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL H JOHNSTON
Claimant

SWIFT PORK COMPANY
Employer

APPEAL 17A-UI-04889-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/16/17
Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 1, 2017, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on May 25, 2017. Claimant participated. Employer participated through human resources coordinator Kristy Knapp.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on January 20, 2003. Claimant last worked as a full-time case sealer operator. Claimant was separated from employment on April 7, 2017, when he resigned to accept other employment.

Claimant was offered a job with Performance Pipe in Bloomfield, Iowa in March 2017. Around March 24, 2017, claimant gave his two weeks' notice of resignation to employer. Claimant was originally scheduled to start work with Performance Pipe on April 10, 2017. Performance Pipe postponed claimant's start date to Monday, April 17, 2017.

On Monday, April 17, 2017, claimant reported to his new place of employment and was required to fill out paperwork. Claimant noted that he did not have a GED or high school diploma. Performance Pipe notified claimant he would not be qualified to work there. As a result, claimant did not earn any wages working for Performance Pipe. Performance Pipe never previously made claimant aware he was required to have a GED or high school diploma to qualify for employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code § 96.5(1)a provides:

Causes for disqualification.

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28 provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

24.28(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43 provides:

Charging of benefits to employer accounts.

23.43(5) *Sole purpose.* The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment but was separated through no fault of his own before having started the new employment. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The May 1, 2017, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 275457) shall not be charged.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/rvs