

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL I WECHTUOR
Claimant

APPEAL NO: 09A-UI-15465-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 09/13/09
Claimant: Respondent (2/R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed a representative's October 5, 2009 decision (reference 01) that held the claimant qualified to receive benefits because his employment separation was for non disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 17, 2009. The claimant did not respond to the hearing notice or participate in the hearing. Tony Luse, the employment manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on August 20, 2008. The claimant worked full time in production on second shift.

Prior to December 19, 2008, the claimant's job was not in jeopardy and the employer had continuing work for him. On December 19, 2008, the claimant informed the employer he was quitting right away because he was moving to another area.

The claimant established a claim for benefits during the week of September 13, 2009. He has filed for and received benefits since September 13, 2009.

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, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. The

evidence presented during the hearing establishes the employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment on December 19, 2008.

A claimant has the burden to establish he quit his employment for reasons that qualify him to receive benefits. Iowa Code section 96.6-2. The law presumes a claimant voluntarily quits employment without good cause when he leaves to relocate to another area. 871 IAC 24.25(2).

The facts presented during the hearing show the claimant resigned on December 19, 2008 because he was moving to another locality. While the claimant had compelling personal reasons for quitting, his reasons do not qualify him to receive benefits. As of September 13, 2009, the claimant is not qualified to receive benefits.

Since the claimant has received benefits since September 13, 2009, the issue of overpayment or whether the claimant is eligible for a waiver of any overpayment shall be remanded to the Claims Section.

DECISION:

The representative's October 5, 2009 decision (reference 01) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit when he resigned because he was moving to another locality. The claimant quit for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of September 13, 2009. 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 or whether the claimant is eligible for a waiver of any overpayment is remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs