

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARL CECIL
Claimant

APPEAL NO: 15A-UI-13157-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

OC: 10/25/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 17, 2015, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on December 16, 2015. The claimant participated in the hearing. Lindy Helm, Human Resources Specialist and Kathy Truelson, Human Resources Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time spice room attendant for West Liberty Foods from February 16, 2015 to August 26, 2015. He voluntarily left his employment while the employer was conducting its initial investigation into the claimant's complaint that another employee, "Gus," hit him.

On August 26, 2015, the claimant reported that co-worker Gus hit him in the face and back after they argued about a cart. The claimant was taken to the nurse's office and the employer asked him what happened and took pictures of red marks on his back but he did not have anything on his face to photograph. The employer instructed the claimant to remain in the nurse's office while it talked to Gus. After waiting a short time the claimant left the nurse's office when he saw Gus being escorted downstairs to Human Resources. He was afraid he was going to have to be in the same room with Gus but did not mention that to the employer who had no plans to put the two men together. A police officer arrived at the facility on an unrelated matter and the claimant exited the building just after the employer began interviewing Gus. The employer sent Supervisor Jodi Moss after the claimant but the claimant refused to return to the building. The claimant stated he saw the police and Mr. Moss told the claimant the employer did not call the police and the police were not there about the incident between the claimant and Gus. The claimant still would not go back to the building and stated he was "done." He got in his car, left

the premises, and did not return to work. Because the claimant left before the employer could get through its investigation the employer dropped it because it could not complete it without the claimant's input.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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 means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

While the claimant had every right to be upset if Gus hit him August 26, 2015, he did not wait for the employer to complete its investigation and take action against Gus before he left and refused to return. The employer tried to isolate the two men in an effort to learn what happened but rather than comply with the employer's instructions to stay in the nurse's office, the claimant chose to exit the building when he saw Gus being taken to Human Resources and a police officer show up regarding another issue. The employer sent a supervisor to the parking lot to try to encourage the claimant to return but he refused. If the employer had been able to verify the claimant's accusation, which seems likely given there were red marks on his back, it would have terminated Gus' employment. If the employer determined Gus struck the claimant and did not terminate his employment, the claimant would have had good cause for voluntarily leaving his employment. Instead the claimant left before the employer could finish its investigation and would not return to work. Under these circumstances, the administrative law judge must conclude the claimant has not established that his leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are denied.

DECISION:

The November 17, 2015, reference 01, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css