

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACOB A DAU
Claimant

APPEAL NO. 12O-UI-06273-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC
Employer

OC: 01/29/12
Claimant: Appellant (1/R)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 13, 2012 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because his employment ended for disqualifying reasons. A hearing was initially held on April 3, 2012. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate at the hearing. Based on the claimant's April 3 testimony, an administrative law judge issued a decision, 12A-UI-02661-HT, that reversed the March 13 determination.

The employer had not received the hearing notice and did not know about the April 3 hearing. The employer appealed the decision to the Employment Appeal Board. The Employment Appeal Board remanded this matter to the Appeals Section for a new hearing. Another hearing was held on June 22, 2012. The claimant did not respond to the hearing notice or participate in this hearing. Mary Spreng appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in July 2010. He worked as a full-time production employee. The last day the claimant worked was August 6, 2011. The employer understood the claimant was taking care of his mother August 7 through 15, 2012 and was not available to work. The claimant picked up Family Medical Leave paperwork for a physician to complete to verify it was necessary for the claimant to receive a leave of absence to take care of his mother who was ill.

When the claimant had not returned to work after August 15 and had not returned the necessary paperwork by August 31, the employer sent the claimant a message and asked about the

documents. On September 14, the claimant called and indicated he was returning to work the next day. The employer sent the claimant a final notice on October 13 letting him know he had to return to work or submit the completed paperwork. On October 18, the claimant called the employer to report he was ill and unable to work. On October 21, the claimant faxed documents the employer needed to grant the claimant a leave of absence under Family Medical Leave. The page with the physician's signature and the beginning date of the leave was not faxed. The employer started the claimant's leave on August 7. The claimant's leave of absence ended on November 11, 2011.

The claimant did not return to work or call the employer any time after October 21, 2011. When the claimant did not return to work after November 11 or ask that his leave be extended, the employer considered the claimant to have quit by abandoning his employment. The claimant has not contacted the employer after October 21, 2011.

The claimant established a claim for benefits during the week of January 29, 2012. He filed for and received benefits since January 29, 2012.

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 §§ 96.5(1), (2)a. The evidence indicates the claimant abandoned his employment by failing to return to work or contacting the employer after his leave of absence under the Family Medical Leave Act ended on November 11, 2011. For unemployment insurance purposes, the claimant quit his employment. When a claimant, quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The claimant may have had compelling reasons for quitting, but the evidence does not establish that he quit for reasons that qualify him to receive benefits. As of November 13, 2011, the claimant is not qualified to receive benefits.

The issue of overpayment will be remanded to the Claims Section to determine.

DECISION:

The representative's March 13, 2012 determination (reference 01) is affirmed. The claimant voluntarily quit his employment on November 11, 2011, for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving benefits as of November 13, 2011.

This disqualification continues until he earns ten times his weekly benefit amount from an insured employer. The employer's account is not subject to charge. An issue of overpayment for benefits the claimant may have received since January 29, 2012, is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css