

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARTEMIO N CRUZ

Claimant

APPEAL NO: 12A-UI-05041-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT PORK COMPANY

Employer

OC: 04/08/12

Claimant: Appellant (1)

Iowa Code § 96.5(1) - Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's May 3, 2012 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing with his witness, Mike Graves. Aureliano Diaz, the human resource manager, testified at the hearing. Patty Arment, the claimant's supervisor was present at the hearing. To prepare for the hearing, the claimant requested a subpoena of his personnel file. This request was granted. The claimant also requested the names, home addresses and phone numbers of all employees in the export department that were supervised by Patty Arment. This request was denied.

Based on the evidence, the arguments of the parties, 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?

FINDINGS OF FACT:

The claimant started working for the employer on December 19, 2011. He worked as a full-time production employee in the export department. Patty Arment supervised him.

In February 2012 the claimant complained about the way Arment and another supervisor treated him and reprimanded him in front of co-workers. The claimant believed Arment expected him to do a two-person job and he could not. The claimant also did not believe it was right for a supervisor to yell or reprimand him in front of other employees. After the claimant made his complaint, Diaz told Arment and the other supervisor about the complaint. Diaz reminded both supervisors to treat employees respectfully and professionally. He advised them that warnings should be done in private and not in front of co-workers.

After the claimant made the February complaint, he was not yelled at or reprimanded in front of other employees. But after making the complaint, the claimant believed he was assigned jobs

no one else wanted because he had complained. The union told the claimant that because he did not own a job, the employer could assign him to any job that needed to be done in the export department. The claimant did not like being assigned to the loading dock because he had not applied for this job and it was cold. Even though the claimant could have gotten a jacket from the supply room, he did not realize this. The claimant did not know that when he was assigned to shovel lard out of a combo, employees in other departments performed the same job because the rendering plant was down.

The claimant talked to other employees and learned that when there was an opening in another area in the export department, he could possibly move. The claimant did not want Arment supervising him. After the February complaint, the claimant considered Arment to harass him by watching him work and pushing him to work faster.

On April 5, the claimant could not keep up with work Arment assigned him to do. The claimant believed he had again been assigned to do a two-person job. Also, the speed on the conveyer was too fast for him to keep up. The claimant worked to the best of his ability, did not have time to sharpen his knives and still could not keep up with the work. On April 5, the claimant asked to talk to Diaz again about Arment's harassment.

When the claimant was in Diaz's office, the employer talked to him about work performance issues. Diaz also asked the claimant what he would do in different situations. The claimant became frustrated and upset in the meeting. Diaz did not address his concerns. The claimant concluded Diaz would do nothing to resolve the issues he complained about. The claimant wanted a different supervisor and this was not mentioned. After feeling cornered and becoming upset and frustrated, the claimant finally got up and told the employer he was quitting and walked out the door. The employer tried to get the claimant to stay in the meeting, but was not successful.

After the claimant left the meeting, Graves talked to him. The claimant had calmed down some and told Graves that he did not want to quit. Graves went back to the employer to find out if the claimant could continue working. The employer responded that when the claimant said he quit and walked out of the meeting, the employer accepted his resignation. The union grieved the claimant's employment separation, but was not successful. The claimant learned on April 12 that his grievance had not been successful.

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. Although the claimant asserted he was forced to quit, for unemployment insurance purposes the employer did not initiate the employment separation. The claimant quit when he was upset, told the employer he quit and walked out of a meeting with management on April 5, 2011. When a claimant quits, he has the burden to establish he quit for reasons constituting work-connected misconduct. Iowa Code § 96.6(2).

The law presumes a claimant quits without good cause when he quits because he has a personality conflict with a supervisor or after he is reprimanded. 871 IAC 24.25(21), (28). The claimant made a legitimate complaint in February about the way his supervisor reprimanded him in the presence of co-workers. The evidence indicates this issue was addressed and resolved.

The claimant did not understand that because he did not own a job, the employer could assign him to any job in the export department, even jobs he did not like but that someone had to do. The evidence establishes the claimant had a personality conflict with Arment and did not appreciate her strict, no-nonsense management style. The claimant was a hard worker and when he tried to do work to the best of ability, he did not appreciate being pushed to work harder and faster.

When the claimant made a second complaint about being harassed by a supervisor on April 5, he became very frustrated when the employer talked about a problem with the claimant's job performance and asked him what he would do in certain situations. The claimant felt cornered and concluded management would do nothing to resolve his issues. In frustration and when very upset, the claimant told the employer he quit and walked out of the meeting. Even though the claimant had been upset, after he calmed down a few minutes later he tried to rescind or take back his resignation. The employer had already accepted his resignation and did not allow him to rescind it. As of April 5, the claimant quit because he was upset and frustrated. Since the claimant wanted to rescind his resignation, the issues he wanted resolved do not establish detrimental or intolerable working conditions. 871 IAC 24.26(4).

The claimant established compelling reasons for resigning, but he quit for reasons that do not qualify him to receive benefits. As of April 8, 2012, the claimant is not qualified to receive benefits.

DECISION:

The representative's May 3, 2012 determination (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of April 8, 2012. 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css