

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TOBY L SWAIM**  
Claimant

**APPEAL NO. 11A-UI-11696-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEST LIBERTY FOODS LLC**  
Employer

**OC: 07/17/11**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Toby L. Swaim filed a timely appeal from an unemployment insurance decision dated August 11, 2011, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held September 29, 2011 with Mr. Swaim participating. Human Resources Generalist Sarah Schneider participated for the employer, West Liberty Foods, LLC.

**ISSUES:**

Was the separation a quit or a discharge?  
Was the separation a disqualifying event?

**FINDINGS OF FACT:**

Toby L. Swaim was employed by West Liberty Foods, LLC., from October 7, 2010 until the employer terminated the employment on July 22, 2011. Mr. Swaim's last day on the job was July 11, 2011. He was then injured off work and put on a leave of absence on July 12, 2011. He was released by his physician to return to work on or about July 25, 2011 with restrictions. The employer discharged Mr. Swaim on July 22, 2011 because it could not accommodate his restrictions.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge notes at the outset that the fact-finding decision characterized the separation as a voluntary quit. The administrative law judge has no idea what evidence was submitted to the fact finder, but there is absolutely no evidence in this record indicating that the claimant desired to end the employment relationship. The employer initiated the separation because it concluded that Mr. Swaim was physically unable to perform the work that the company needed him to do. Such a separation is better characterized as a discharge. There is also absolutely no evidence that the discharge was for misconduct. Benefits are allowed.

**DECISION:**

The unemployment insurance decision dated August 11, 2011, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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