

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KERRY A MONROE
Claimant

APPEAL NO. 13A-UI-12445-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

OC: 09/29/13
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 29, 2013, (reference 02) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on December 2, 2013. Claimant participated. Employer did not respond to the hearing notice instruction and did not participate. Claimant's Exhibit A was received.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a livestock herder and was separated from employment on July 27, 2012. He quit the job because when it was hot (115 degrees F) in the barn, if the hogs did not move, the superintendent would scream at workers and direct them to beat hogs aggressively with a paddle about the head, electrocute them on their vaginas to force them into the carbon dioxide chamber or kill hogs that laid down and would not move. The animal handling supervisor and USDA monitor looked the other way when production management reported hogs were not moving fast enough, thus increasing labor costs. Coworkers also harassed him and blamed him for their leaving a hog in the lane in spite of surveillance camera evidence to the contrary. Management was aware of the situation and did nothing. The supervisor alternated between telling him he was doing well and yelling at him.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with 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.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Where claimant was required to work in two separate positions and received contradictory instructions from two different supervisors and quit after being reprimanded for his job performance was entitled to benefits. *McCunn v. Emp't Appeal Bd.*, 451 N.W.2d 510 (Iowa Ct. App. 1989).

The conflicting supervisory and management instructions and feedback to treat hogs humanely except when production slowed, created an intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment. Benefits are allowed.

DECISION:

The October 29, 2013 (reference 02) decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible and the benefits withheld shall be paid.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs