

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARANG A ATEM

Claimant

APPEAL NO. 10A-UI-01342-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC

Employer

**Original Claim: 12/06/09
Claimant: Respondent (2/R)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed a representative's January 15, 2010 decision (reference 01) that concluded the claimant was qualified to receive benefits, and the employer's account was subject to charge because the claimant voluntarily quit his employment for reasons that qualified him to receive benefits. A telephone hearing was held on March 8, 2010. The claimant participated in the hearing. Becky Jacobson, the human resource manager; Brian DeSchepper, the assistant general manager; and Bob Starman, the cut floor supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for qualifying reasons or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on July 31, 2008. The claimant worked as a full-time production worker.

The claimant had problems with two co-workers, Irene and Israel. On September 16, 2009, the claimant gave the human resource department a letter explaining the problems he had with his co-workers. He reported that two employees harassed him at work and had a confrontation with the claimant in the employer's parking lot. The employer investigated the claimant's complaints. In its investigation, the employer reviewed tapes of the parking lot and talked to employees. The employer could not verify the claimant's complaint. During the investigation, the two co-workers reported problems they had with the claimant and accused him of harassing them. The employer could not verify the co-workers' complaints either. The employer recognized there was a problem and had all three employees attend a harassment training session. The employer also told the employees they were not to talk to one another and if there were further problems, to report it to a supervisor.

On September 29, 2009, Irene complained that the claimant was blowing kisses at her. On October 1, the claimant and Irene were working next to each other. Another employee saw the claimant throwing meat at Irene and yelled at him to stop. Starman heard the employee yell and then saw the claimant leave the line very upset. The claimant was upset because Irene made a derogatory remark about him. Starman saw the claimant go to Israel. Starman stopped the claimant before anything happened. Starman then took the claimant to DeSchepper's office.

DeSchepper asked the claimant what had happened. The claimant was angry and indicated he did not want to talk about the incident. The claimant was angry because he had reported the problem in mid-September and the employer had not done anything to resolve the problems between the three employees. The claimant gave DeSchepper his ID. Even though DeSchepper asked the claimant to explain what had happened, the claimant would not talk about the incident. When DeSchepper asked if he was done, the claimant said he was. The employer concluded the claimant had just quit and helped him clean out his locker. The claimant did not return to work after October 1, 2009.

The claimant established a claim for benefits during the week of December 6, 2009. The claimant has filed for and received benefits since December 6, 2009.

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 establishes the claimant initiated his employment separation and quit on October 1, 2009. The employer had no intention of ending the claimant's employment on October 1. The employer only tried to find out why the claimant was upset and angry. 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 law presumes a claimant voluntarily quits employment with good cause when he quits for intolerable or detrimental working conditions. 871 IAC 24.26(4). The facts show there were problems between the claimant and two of his co-workers. The claimant brought the problem to the employer's attention in mid-September. The employer started to investigate the claimant's complaint immediately. During the investigation, the two employees the claimant complained about reported that the claimant had also harassed them. When the employer could not verify any person's complaint, the employer had all three employees attend harassment training. The claimant asked to transfer, but the employer could not just transfer him. Instead, the claimant had to follow the rules and bid to transfer to an available job.

On October 1, Irene made a derogatory remark to the claimant and he became angry. Instead of reporting the remark to a supervisor, he took matters into his hands and threw pieces of meat at Irene and then angrily left the line to confront Israel.

Under these circumstances, the employer could have possibly done something more, but no complaint could be verified. The claimant may not have liked the employer's initial solution, but it was reasonable. Unfortunately, the claimant became angry and failed to use good judgment when he threw meat and decided to confront Israel instead of reporting Irene's offending remark to Starman. It is understandable why the claimant was upset on October 1, but the evidence does not establish that he quit because of intolerable or detrimental working conditions.

On October 1, the claimant quit because he was mad. He refused to tell the employer his version of what happened so the employer could do something. The claimant quit on October 1

for personal reasons, but he did not establish that he quit for reasons that qualify him to receive benefits. As of December 6, 2009, the claimant is not qualified to receive benefits.

The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

DECISION:

The representative's January 15, 2010 decision (reference 01) is reversed. 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 December 6, 2010. 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. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is Remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw