

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAX B THOMASSON
Claimant

APPEAL NO. 07A-UI-02913-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 02/25/07 R: 02
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Max B. Thomasson (claimant) appealed a representative's March 20, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Swift & Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 9, 2007. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. 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 for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on August 7, 2006. He worked full time as a production worker in the employer's Marshalltown, Iowa, meat processing facility. His last day of work was February 27, 2007.

The claimant worked a 7:00 a.m.-to-3:30 p.m. schedule. A new supervisor had been brought into his area in early February, and she was trying to get the production numbers up. On February 27, at approximately 8:30 a.m., the supervisor told the group of three including the claimant who were working on one task that they needed to pick up the pace, that they were getting behind. The claimant was upset because he understood that the supervisor had had the machines speeded up and that there were only three people working on what was normally a four-person job. However, he did not present any evidence that the speed was beyond that established as within safe margins, nor did he seek input from the safety staff or union representatives as to whether the speed was unsafe for three persons.

At approximately 9:15 a.m. the supervisor approached the claimant specifically and told him that he was not working up to his potential, and that if he did not pick things up, his next job would be "looking for pop cans on the street." This further upset the claimant. At approximately 10:00 a.m.

the claimant was called in the management office with the supervisor and another manager. The supervisor reiterated to him that he was not working as quickly as he was able. He was told he was not being formally disciplined, but that if his performance did not improve it could eventually lead to discipline. This again angered the claimant, as he felt he was working very hard, even beyond the usual or average. He told the employer he "didn't need this s - - -," got up, and walked out.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for 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 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). While the claimant's work situation was perhaps not ideal, he has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's March 20, 2007 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of February 27, 2007, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw