

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MONTE L OLLIN
Claimant

APPEAL NO: 11A-UI-09997-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAWN ENGINEERING CORPORATION
Employer

OC: 05/22/11
Claimant: Appellant (5)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's July 22, 2011 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. Jamie Badger, the human resource representative, Annette Cook and Brian Peavey, the weld supervisor, appeared on the employer's behalf. 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, or did the employer discharge him for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The employer hired the claimant on May 13, 2011. The claimant resigned for personal reasons on May 24, 2011. After his personal issues were resolved, the claimant reapplied and the employer hired him again. On June 8, 2011, the claimant started working for the employer again as a full-time employee.

The last day the claimant worked was June 17, 2011. He was scheduled to work after June 17, but did not call or report to work again. After the claimant did not call or report to work for three days, the employer no longer considered him an employee. The employer considered the claimant to have abandoned his job.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good use attributable to the employer. Iowa Code § 96.5(1). 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 first issue to address is the credibility of the witnesses. The claimant's testimony is not deemed credible. First, the claimant changed his testimony as to what day he allegedly reported to work. Next, he asserted Peavey told him on June 21 he was discharged. However, the employer then called Peavey as a witness and he denied he talked to or saw the claimant after June 17. Finally, the claimant asserted he left a message on Sunday night or Monday morning that he was unable to work on Monday, June 20. The employer did not receive such a call from the claimant.

Since the claimant's testimony is not deemed credible, the findings of fact reflect the employer's version of the events, or that the claimant failed to call or report to work after June 17 and abandoned his job.

The claimant may have had personal reasons for failing to call or report to work after June 17. The facts do not, however, establish that he quit for reasons that qualify him to receive benefits. Since the claimant established a claim for benefits as of May 22, 2011, the reasons for quitting his employment on May 24, must also be looked at.

The claimant quit for personal reasons on May 24. He did not establish that he quit for reasons that qualify him to receive benefits as of May 22 either. As of May 22, the claimant is not qualified to receive benefits.

DECISION:

The representative's July 22, 2011 determination (reference 02) is modified, but the modification has no legal consequence. The claimant actually quit this employment twice. Once on May 24 and then again during the week of June 19. Each time the claimant quit, he quit for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 22, 2011. 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