

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN E MRZLAK
Claimant

APPEAL NO. 12A-UI-12994-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

B P O E
LODGE 290
Employer

OC: 09/30/12
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 17, 2012, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on November 30, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Kevin Andriano participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant has worked part time for the employer on and off as a kitchen helper for several years. He returned to work for the employer in 2011.

The claimant was scheduled to work from 2:00 p.m. to about 7:00 p.m. on September 29, 2012. At about 3:30 p.m., he told the chef he was going to take a break. The chef told the claimant that if he was going to take a break, he might as well go home. The claimant went home instead of continuing to work. He understood that he was only being sent home for the day.

The claimant came into work on October 1, but when no one at work said anything to him, he took his knives and left work. He mistakenly and unreasonably believed that because no one talked to him, it meant he was no longer employed. He never asked anyone what his employment status was. The employer reasonably believed the claimant had quit when he came in and picked up his knives and left work.

A couple of days later, the claimant talked to the chef again to see if he could come back to work. The chef said he would have to talk to the manager. When the chef got back to the claimant, he told him that the manager did not want him back.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

The claimant's belief that he was no longer employed based on no one talking to him on October 1 was mistaken and unreasonable. On the other hand, when the claimant came in on October 1, packed up his knives and left, the employer reasonably believed that he had voluntarily quit. The fact that the employer was not willing to rehire the claimant does not change the quit into a discharge. The claimant voluntarily quit employment without good cause attributable to the employer.

DECISION:

The unemployment insurance decision dated October 17, 2012, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css