

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VALENTIN T GILES

Claimant

APPEAL NO. 10A-UI-13353-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP

Employer

OC: 08/08/10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's September 9, 2010 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. The employer contacted the Appeals Section before the scheduled hearing and informed the Appeals Section that the employer was not going to participate in the hearing. Ike Rocha interpreted the hearing.

The issue of whether the claimant filed a timely appeal was indicated on the hearing notice. This issue was not addressed during the hearing, which will be explained in the Reasoning Section of the decision. Based on the evidence, the arguments of the claimant, 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?

FINDINGS OF FACT:

The claimant started working for the employer in June 2001. The claimant deboned meat. In August 2009, the claimant had surgery on his right shoulder. The employer's physician treated the claimant and released him to work without any work restrictions.

Although the claimant had successfully bid for another job, this job was similar to the job he had. This job also required the claimant to lift or throw frozen meat. During the summer of 2010, the shoulder that he had surgery on sometimes locked up. The claimant also hurt his finger at work. When the claimant had problems with his shoulder and/or finger, he went to the employer's nurse. The nurse gave him a cold or hot pad and a pill and sent him back to work.

The claimant's most recent job required him to throw frozen meat and he could not do this without experiencing problems with his shoulder or finger. The claimant's general practitioner advised the claimant to take a leave of absence so his finger would heal. The claimant has a chronic medical condition that made it more difficult for his finger to heal. The claimant asked

the employer for a year off from work. After the employer denied this request, the claimant quit his employment because he could not do the work that his job required him to do. The claimant's last day of work was August 11, 2010.

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. 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.

Since the claimant did not have any work restrictions, there was no legal reason for the employer to make any work accommodations for him. The administrative law judge has no doubt that the work the claimant performed bothered his shoulder at times. Even though the claimant's general physician suggested that he take time off from work so his finger could properly heal, the claimant did not provide the employer with any work restrictions. The claimant established personal reasons for quitting, but he did not establish that he quit for reasons that qualify him to receive benefits. Therefore, as of August 8, 2010, the claimant is not qualified to receive benefits.

If this decision is appealed, the first issue that needs to be addressed is whether the claimant filed a timely appeal. The file indicates the claimant had to file a timely appeal by August 19, but he filed his appeal at his local Workforce office on August 27, 2010. Although timeliness of appeal was noted as an issue, the administrative law judge neglected to take evidence on this issue. I decided not to reopen this matter because, based on the merits of the claimant's appeal, he is not qualified to receive benefits.

DECISION:

The representative's August 8, 2010 determination (reference 01) is affirmed. 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 August 8, 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw