

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAREY K CHRISTENSEN
Claimant

APPEAL NO: 12A-UI-14154-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRI STAR MEAT & POULTRY LLC
Employer

OC: 10/28/12
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 21, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing. Laura Roney appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits or did the employer discharge her for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in July 2011. She worked full time. The employer's drug and alcohol policy informs employees they can be asked to submit to a drug and alcohol test if there is reasonable suspicion an employee is under the influence at work. The employer's drug policy also provides employees with an opportunity to participate in an alcohol rehabilitation program under certain conditions.

Before the claimant's August 18, 2012 shift, she consumed alcohol. The claimant admitted she was under the influence when she went to work. The employer noticed the claimant's behavior was abnormal on August 18 and asked her to submit to an alcohol test.

The employer took the claimant to a clinic where she took a Breathalyzer test. The initial and confirmatory tests were positive. The employer learned the test was positive and told the claimant she was suspended without pay. The employer then told the claimant to go home and she would receive a letter advising her what she was to do next.

The employer sent a certified letter to the claimant on August 22. The claimant did not receive the letter until September 6. The letter informed the claimant that within three working days after notice of a positive test result, she could submit information to a medical review officer to

explain the test result. The August 22 letter did not state the claimant was discharged, but the claimant assumed she was because of the three-day deadline in the letter. The claimant did not contact the employer to ask what she needed to do after she received the certified letter on September 6.

The employer considered the claimant to have voluntarily quit when she did not contact the employer within a reasonable time after receiving the certified letter.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (2)a. The evidence establishes that even though the claimant had a positive drug test, the employer's August 22 certified letter did not state she was discharged.

The August 22 letter may have confused the claimant because she did not receive the letter until September 6. Her failure to take reasonable steps by contacting the employer after she received the letter amounts to an abandonment of her employment. The facts establish the claimant quit by failing to do anything about her employment after September 6.

When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2). The claimant did not establish she quit for reasons that qualify her to receive benefits. As of October 28, 2012, the claimant is not qualified to receive benefits.

DECISION:

The representative's November 21, 2012 determination (reference 01) is affirmed. The claimant voluntarily quit her employment by failing to contact the employer after she received a certified letter on September 6, 2012. The reasons for the claimant's employment separation do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 28, 2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/tll