

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES A MAHLSTEDT
Claimant

APPEAL NO. 11A-UI-05552-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRI STAR MEAT & POULTRY LLC
Employer

**OC: 03/27/11
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 21, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on May 20, 2011. Claimant participated with witness Larry Moen. Employer participated by Laura Althouse, Payroll Human Resource Assistant. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 29, 2011. Claimant quit because of a conflict with a supervisor. Claimant was told to help a coworker if asked. Claimant was then threatened with discharge each time he helped the coworker. It was claimant's job to help his coworker. The supervisor swore at claimant on a regular basis. Claimant complained about the unfair treatment to no avail. Claimant gave notice to quit effective April 1, 2011, but was let go on March 29, 2011. Claimant asked for a transfer to another department. Openings existed in another department. Claimant was not allowed to transfer for unknown reasons.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of harassment by a supervisor. The daily threats claimant endured are sufficient to qualify as an intolerable working condition. Claimant was sworn at on a daily basis. Claimant was not allowed a transfer out of the inappropriate working environment. This is a quit for cause attributable to employer because of intolerable working conditions. Benefits allowed.

Iowa Code § 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(30) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

DECISION:

The decision of the representative dated April 21, 2011, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs