

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANDREW MENZEL**  
Claimant

**APPEAL NO: 09A-UI-10159-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT & COMPANY**  
Employer

**OC: 06/07/09**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Andrew Menzel (claimant) appealed an unemployment insurance decision dated July 7, 2009, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Swift & Company (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 3, 2009. The claimant participated in the hearing. The employer participated through Aaron Vawter, Human Resources Coordinator. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time production worker from February 26, 2007 through March 11, 2009 when he walked off the job. The employer never heard from him after that date.

The claimant wrote in his appeal letter and initially testified that he was fired on February 28, 2009. He was seeing a co-worker named Amy but Amy was reportedly pregnant with their married supervisor's baby. The claimant said that the supervisor fired him by telling him on February 28, 2009 that he needed to leave the plant as he was no longer employed. He later changed his testimony to agree with the employer's separation date but failed to offer any explanation as to why he originally claimed his separation date was in February 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

Although the claimant contends he was fired, the preponderance of the evidence confirms he quit. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by walking off the job on March 11, 2009. The supervisor who reportedly discharged the claimant had no authority to discharge him and all separations are handled by the human resources office. Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without cause attributable to the employer. LaGrange v. Iowa Department of Job Service, (Unpublished Iowa Appeals 1984).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

**DECISION:**

The unemployment insurance decision dated July 7, 2009, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

---

Susan D. Ackerman  
Administrative Law Judge

---

Decision Dated and Mailed

sda/pjs