

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

NICHOLAS CRENSHAW
Claimant

OSCEOLA FOOD LLC
Employer

APPEAL NO. 14A-UI-07223-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/15/14
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Nicholas Crenshaw (claimant) appealed an unemployment insurance decision dated July 10, 2014, (reference 02), which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Osceola Food, LLC (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 6, 2014. The claimant participated in the hearing. The employer participated through Jared Lee, Human Resources Coordinator.

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 worked as a full-time employee from November 18, 2013, through June 16, 2014, when he effectively quit his employment. He was hired as a forklift operator but most recently worked as a curing operator. The claimant testified there was a needle that broke in an injection machine and he believed he was going to get a disciplinary warning for it. He said he had received two previous disciplinary warnings and employees are discharged after three warnings.

The claimant said Supervisor Anders Peterson told him, "There's no point for you to come back." However, Mr. Peterson does not have the authority to discharge employees and a third warning was never issued. The claimant rode to work on the following day with co-employees but did not report to work. Instead, he cleaned out his locker. He was a no-call/no-show on June 17, 18, 19, and 20.

REASONING AND CONCLUSIONS OF LAW:

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

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 cleaning out his locker and failing to return to work after August 16, 2014. 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. Benefits are denied.

DECISION:

The unemployment insurance decision dated July 10, 2014, (reference 02), 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