

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANINE R JOHNSTON
Claimant

APPEAL NO. 09A-UI-01488-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 12/14/08 R: 02
Claimant: Appellant (5)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Janine R. Johnston filed a timely appeal from an unemployment insurance decision dated January 23, 2009, reference 01, that disqualified her for benefits upon a finding that she had been discharged for misconduct in connection with her employment with Swift & Company. After due notice was issued, a telephone hearing was held February 18, 2009 with Ms. Johnston participating. Employment Manager Tony Luse participated for the employer. Claimant Exhibit A was admitted into evidence.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Janine R. Johnston was employed as a production worker by Swift & Company from December 6, 2006 until July 30, 2008. On the day of separation Ms. Johnston's supervisor, Mario Almonza, moved her from her bid job to another production line position. He did so because he felt that she was not keeping up. Ms. Johnston refused, believing that Mr. Almonza was discriminating against her because she had spoken up at a production team meeting several months earlier.

Ms. Johnston demanded a meeting with management. The plant manager, the personnel manager, Mr. Almonza, the claimant and two union representatives participated in the meeting. Mr. Almonza explained his rationale for the move, a rationale that Ms. Johnston did not accept. Ms. Johnston continued to refuse to return to the job as assigned by Mr. Almonza. The personnel manager told Ms. Johnston that if she refused to do so the company would consider that she voluntarily quit. Ms. Johnston responded, "whatever." She turned in her badge and was escorted from the building.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

Iowa Code section 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.

The claimant has the burden of proof. See Iowa Code section 96.6-2. An individual may receive unemployment insurance benefits if the individual has resigned because of intolerable or detrimental working conditions. See 871 IAC 24.26(4). On the other hand, an individual is disqualified for benefits if the individual resigns because of general dissatisfaction with the work environment because of a personality conflict with a supervisor. See 871 IAC 24.25(21) and (22). An individual is also disqualified for benefits if the individual has resigned rather than perform assigned work as instructed. See 871 IAC 24.25(27).

The evidence establishes a long running conflict between Ms. Johnston and her supervisor. It also establishes that she resigned rather than perform the work assigned to her by her supervisor. The claimant's evidence does not establish that the supervisor transferred her to another position as a punitive measure. Had the evidence established this, the administrative law judge would have awarded benefits. The claimant's testimony, however, was primarily her subjective feelings about Mr. Almonza and his motivation. This evidence is insufficient to establish intolerable or detrimental working conditions. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated January 23, 2009, reference 01, is modified without effect. The claimant was not discharged. She left work voluntarily without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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