

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BERNARD T GULEN

Claimant

APPEAL NO. 09A-UI-04256-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP

Employer

OC: 01/25/09

Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Bernard Gulen filed an appeal from a representative's decision dated March 11, 2009, reference 02, which denied benefits based on his separation from Cargill Meat Solutions Corporation (Cargill). After due notice was issued, a hearing was held by telephone on April 13, 2009. Mr. Gulen participated personally. The employer participated by Alicia Alonzo, Human Resources Generalist.

ISSUE:

At issue in this matter is whether Mr. Gulen was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Gulen began working for Cargill on June 24, 2008 and worked full time as a production laborer. He voluntarily quit on January 27, 2009 because of, in part, periodic pain in his shoulder, fingers, and wrists. He saw the company nurse as needed and was provided ice packs. He saw a doctor on January 20 and was released to work without restrictions. He was not advised by a doctor to leave the employment.

Mr. Gulen also quit because he felt he was being treated differently at work. He felt his supervisor ignored him when he needed help. He also felt his supervisor raised his voice to him inappropriately. There were two coworkers who persisted in referring to him as "Chino" in spite of his requests that they not do so. When Mr. Gulen notified human resources that he was quitting because of the above problems, he was asked not to quit. He was told an investigation would be made regarding his concerns. Mr. Gulen did not want to remain in the same work area while his complaints were being investigated and, therefore, proceeded to quit. Continued work would have been available if he had not quit.

REASONING AND CONCLUSIONS OF LAW:

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Part of the reason for Mr. Gulen's quit was that he experienced periodic pain in his shoulder, fingers, and wrists. Given the type of work he performed, his complaints were not out of the ordinary. He was only in the employment approximately seven months. The evidence failed to establish that his pain was something more than the "work-hardening" process. Given the fact that the doctor released him to return to work without restrictions, the administrative law judge concludes that remaining in the employment did not pose a risk to Mr. Gulen's health.

Mr. Gulen also quit because he felt he was being treated differently by his supervisor and because coworkers called him "Chino." According to Mr. Gulen's own testimony, the employer was prepared to conduct an investigation of his complaints. However, he quit before allowing the employer an opportunity to investigate and resolve his complaints. Because the employer was not given a fair opportunity to remedy the work-related problems, they did not constitute good cause attributable to the employer for quitting.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Mr. Gulen voluntarily quit his employment with Cargill for no good cause attributable to the employer. Accordingly, benefits are denied.

DECISION:

The representative's decision dated March 11, 2009, reference 02, is hereby affirmed. Mr. Gulen voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until he has worked in and been paid wages of insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs