

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN W BIGELOW
Claimant

APPEAL NO: 13A-UI-08122-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BLTS FARM INC
Employer

OC: 06/16/13
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a July 5, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing with his witness, Amber Criuqi. Jim Fry, the owner appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer as a full-time laborer in August 2004. The claimant worked as scheduled on June 17, 2013. Around 3:00 a.m. on June 18, the claimant left a message for the employer stating that he was going to take a personal day on June 18. When employees want to take a personal day, they are required to personally talk to Fry. Fry left a message for the claimant after he heard the message and told him to contact him that night because he would not be needed the next day, but that he was not fired.

The evening of June 18 the claimant called when Fry was busy and could not talk to the claimant. When Fry was available he returned the claimant's call. Fry and the claimant eventually talked the evening of June 19. During their conversation, the claimant told Fry he had called early June 18 because he had been in jail. Fry did not tell the claimant he was fired, but that he did need to make some choices. In the past, Fry held the claimant's job for a month when the claimant had to deal with personal issues. The claimant did not return to work.

REASONING AND CONCLUSIONS OF LAW:

The recording the claimant played where a male voice said, "You are done," does not support his assertion that the employer discharged him. The claimant admitted the recording was not

the complete conversation he had with Fry. Fry denied that it was his voice on the recording. The recording is not reliable evidence. The facts support Fry's testimony that the claimant was not discharged. This is supported by the fact the employer has held the claimant's job for a month and he specifically asked the claimant to call the employer in the evening and continued to call the claimant so they could talk. The employer's efforts to talk to the claimant do not support a conclusion that the employer discharged the claimant. Instead, the evidence indicates the claimant quit by failing to return to work after June 18, 2013.

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (2)a. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The claimant may have been frustrated when he and the employer had to keep calling one another to talk. The claimant may have also incorrectly assumed he no longer had a job. But the facts do not establish that Fry discharged him. Instead, the evidence indicates the claimant abandoned his employment by failing to return to work. The claimant may have had personal reasons for failing to return to work, but he did not establish that he had good cause for quitting. Therefore, as of June 16, 2013, the claimant is not qualified to receive benefits.

DECISION:

The representative's July 5, 2013 determination (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 16, 2013. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css