

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLARD VANDER STREEK
Claimant

APPEAL NO: 10A-UI-10545-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SIOUX-PREME PACKING CO
Employer

OC: 06/27/10
Claimant: Respondent (2/R)

Section 96.5-1- Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's July 20, 2010 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive benefits.

A pre-hearing conference was held on September 10, 2010. The employer resisted providing documents the claimant had subpoenaed. After listening to the arguments of the parties, it was verbally Ordered that the employer did not have to supply any of the requested documents to the claimant.

The claimant participated in the telephone hearing on October 19, 2010. Jon Yomker, the plant manager, and Amanda Koele, the office manager, 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?

FINDINGS OF FACT:

The claimant started working for the employer in January 2008. The employer hired the claimant to work full time in quality control. Although the employer paid the claimant his wages, the claimant did not consider himself one of the employer's employees. Instead he considered himself a public employee. In addition to employees working in quality control, USDA inspectors worked in the employer's facility to make sure federal safety regulations were followed.

On Monday, June 21, the employer asked the claimant to work on the production line because the employer had a shortage of employees who reported to work. The claimant refused to work on the production line because he had been hired to work in quality control. The employer found another person to work the production line on Monday.

On June 23, the employer again asked the claimant to work on the production line and he did. On June 24, the claimant was upset because he was again assigned to work on the production line. After the claimant argued with the line supervisor about where he had been assigned to work, the employer decided to give the claimant a three-day suspension to calm down. When the claimant asked for a written warning explaining why he was suspended, the employer did not provide him with one.

Shortly after the employer gave the claimant the three-day suspension, the claimant submitted his written resignation that was effective immediately. The claimant's resignation notice indicated he quit because the employer had him work on the production line when he had been hired to work in quality control.

The claimant established a claim for unemployment insurance benefits during the week of June 27, 2010. The claimant has filed for and received benefits since June 27.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code section 96.5-1. When a claimant quits he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code section 96.6-2.

The law presumes a claimant with quits with good cause if he leaves because of a substantial change in his employment. 871 IAC 24.26(1). The law also presumes a claimant quits without good cause when he quits after he has been reprimanded. 871 IAC 24.25(28).

The claimant initially acknowledged that if he had not been suspended, he would not have resigned. The claimant did not like working the production line, but the evidence does not establish that this was a permanent situation. The employer asserted this was temporary because the employer did not have enough employees at work. If the facts would have established the employer transferred the claimant to production on a permanent basis, the claimant would have quit with good cause because his employment would have been substantially changed. 871 IAC 24.26(1). The facts in this case do not establish that working on the production line was permanent.

The claimant established that he is a very conscience quality control employee. Since USDA inspectors worked in the plant to make sure safety regulations were followed, it is difficult to understand why the claimant did not raise his concerns and complaints to these inspectors or report his concerns to other higher USDA officials.

For unemployment insurance purposes, the claimant quit his employment for personal reasons, but he did not establish that he quit for reasons that qualify him to receive benefits. As of June 27, 2010, the claimant is not qualified to receive benefits.

Since the claimant has received benefits since June 27, 2010, the issue of overpayment or whether the claimant is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

DECISION:

The representative's July 20, 2010 determination (reference 01) is reversed. The claimant voluntarily quit his employment for personal reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 27, 2010. 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. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs