

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS L LEONARD
Claimant

APPEAL NO. 08A-UI-09227-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PACIFIC PROCESSORS INC
Employer

OC: 08/24/08 R: 02
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Thomas L. Leonard (claimant) appealed representative's October 7, 2008 decision (reference 01) that concluded he was not qualified to receive benefits, and the account of Iowa Pacific Processors, Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known address of record, a telephone hearing was held on October 27, 2008. The claimant participated in the hearing. Dave Martin, the accountant, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

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 on September 10, 2007. The claimant worked as a full-time industrial engineer and mechanic. J. R. supervised the claimant. When the employer hired the claimant, the employer knew he had a work restriction – could not lift more than 20 pounds with his right arm.

The claimant and his supervisor noticed the employer advertised for a position in the claimant's department. The claimant incorrectly assumed the position the employer advertised for was his. The employer instead planned to discharge J.R. and was advertising for his position.

The claimant requested a week off to rest his shoulder. The employer granted this request and the claimant was off from work January 14 to 19, 2008. The time off was without pay. The claimant returned to work. He worked until February 8, 2008. The employer discharged J.R. on February 1, 2008. On or about February 8, J.R. told the claimant that he had been discharged. The claimant asserted that J.R. told him the employer had also discharged the claimant. The claimant did not check with anyone in management to find out for sure if he had been discharged or why the employer had discharged him.

The claimant did not return to work after February 8, 2008. The first time he had any contact with the employer was when he sent the employer a letter asking if he was going to be paid for January 14 through 19 and February 11 through 15. The employer did not respond to the claimant's letter. When the claimant brought back his uniform, he did not say anything to anyone in the office.

REASONING AND CONCLUSIONS OF LAW:

The first issue that must be addressed is the credibility of the witnesses' testimony. The claimant asserted his supervisor, J.R., told him that the employer had discharged both of them. However, the employer discharged J.R. on February 1 and the claimant continued working until February 8, 2008. Based on common sense, the claimant's testimony does not appear credible. Also, J.R. did not testify at the hearing. There is no evidence indicating the claimant requested that J.R. participate in the hearing to support his testimony. Even though the employer advertised for a position in the claimant's department, the claimant failed to provide a copy of that advertisement during the hearing. As a result, the employer's testimony that the employer was advertising to replace J.R. and not the claimant cannot be disputed. The claimant's testimony that J.R. told him he was discharged is not credible or the claimant failed to take reasonable steps to verify that his discharged supervisor told him the truth. Based on the credibility of the testimony presented, the claimant's version of events is not credible. In other words, the employer did not discharge the claimant on February 8, 2008.

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or the employer discharges him for work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The fact show the claimant quit his employment by failing to report to work after February 8, 2008.

The claimant may have had personal reasons for quitting. The evidence does not establish that he quit for reasons that qualify him to receive benefits. As of August 24, 2008, the claimant is not qualified to receive benefits.

DECISION:

The representative's October 7, 2008 decision (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 August 24, 2008. 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/kjw