

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLES H BROWN
Claimant

APPEAL NO. 07A-UI-07847-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PLUMROSE USA INC
Employer

**OC: 07/15/07 R: 01
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Plumrose USA, Inc. (employer) appealed a representative's August 3, 2007 decision (reference 01) that concluded Charles H. Brown (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 29, 2007. The claimant participated in the hearing. Charley Lange, the plant manager, 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 unemployment insurance benefits, or did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 18, 2004. The claimant worked as a full-time injection supervisor on the night shift. The claimant's most recent supervisor was Alonzo Rauda. Al Kuper also supervised the claimant.

In late April 2007, the employer put the claimant on a 60-day probation for work performance issues. The claimant believed the employer disciplined him for problems that occurred while he was on vacation. As a result of the 60-day probation, the claimant worked with Rauda to make sure he was doing everything satisfactorily. The claimant believed he had satisfactorily completed the 60-day probation.

The claimant decided he was going to start looking for another job because he was spending more time worrying about his job than he was taking care of his family. As a result, the claimant had some family issues to resolve. On July 6, the claimant told Rauda he was going to start looking for another job because there were issues with his job that were not working out. After

Rauda pushed the claimant to let him know when his last day of work would be, the claimant indicated that if he found a job immediately, his last day of work would be July 31, or in two weeks. The claimant, however, emphasized that when he found a job, he would give the employer two weeks' notice.

On July 9, the employer told the claimant his last day of work would be July 31 because the employer accepted his resignation notice. The claimant told the employer he had not resigned, but the employer did not change its position. On July 11, the claimant received a phone call from his wife at work. She is expecting and called him around 12:30 a.m. asking him to come home. The claimant tried to contact Rauda to let him know he had to leave work early. The claimant had talked to Rauda at 11:30 p.m., but could not contact him by radio or his cell phone. The claimant left a message for Rauda. Before the claimant left, he told his lead person what work had to be done yet and what should be left for first shift.

After the claimant left, the lead person had to check on some in-coming product. While the lead person was away from the area, an employee ground a mixture of turkey and ham. The ham and turkey were supposed to be ground separately. This mistake cost the employer over \$8,000.00. As a result of the mix-up when the claimant was not at work, the employer informed the claimant on July 12 that since he had already put in his two-week notice and because of the problems when he left early, he no longer worked for the employer.

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, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The claimant's testimony about the conversation he had with Rauda on July 5 or 6, must be given more weight than the employer's reliance on a written statement Rauda made on August 27, when he did not testify at the hearing. Based on a preponderance of credible evidence, the claimant only told the employer he was going to start looking for work and would be quitting when he found another job. When pressed for the effective date of his resignation, the claimant told the employer he would give the employer a two-week notice after he found another job. Even after the employer told the claimant on July 9 that his resignation had been accepted and his last day of work would be July 31, the claimant's attempt to explain that he had not resigned fell on deaf ears. The facts establish that the claimant did not voluntarily quit his employment. He only put his employer on notice that he was going to look for another job and would be quitting after he secured other employment.

On July 12, the employer terminated the claimant's employment because of problems encountered when he left work early. The claimant took reasonable steps to contact Rauda the morning of July 12, but Rauda did not respond to the radio or to his cell phone. The claimant knew he had to leave work before the shift ended because his wife needed him. The claimant explained to the lead person what work had to be done before he left work. When the claimant left work, he assumed there would not be any problems. Unfortunately, an employee mixed meats when the lead person was not in the area. While the employer may have justifiable business reasons for discharging the claimant, the claimant did not intentionally disregard the employer's interests. The claimant did not commit work-connected misconduct. As of July 15, 2007, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 3, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of July 15, 2007, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw