

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATHANIEL D PERKINS
Claimant

APPEAL NO. 09A-UI-04966-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 02/22/09
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 20, 2009, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on April 28, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Tony Luse participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a second-shift production worker from December 2007 to February 11, 2009. On February 11, the claimant was ill near the end of the workday. Employees were allowed to leave employment when their work on the line was completed and did not have to get a supervisor's permission to leave. The claimant took a restroom break and then left work at about 9:30 p.m. because he believed that he had completed all the work for the day. The employer considered him to have abandoned his job because there was still some work available when he left and terminated his employment when he reported to work the next day.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. To voluntarily quit means a claimant exercises a voluntary choice between remaining employed or discontinuing the employment relationship and chooses to leave employment. To establish a voluntary quit requires that a claimant must intend to terminate employment. Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989); Peck v. Employment Appeal Board, 492 N.W.2d 438, 440 (Iowa App. 1992). The evidence does not show the claimant intended to quit his job when he left work at the end of the day.

The issue in this case then is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. I believe the claimant's testimony that he thought his work was done for the day when he left. At most, the evidence shows a good faith error in judgment.

DECISION:

The unemployment insurance decision dated March 20, 2009, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css