

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EARL E THOMAS**

Claimant

**APPEAL NO. 12A-UI-09161-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**

Employer

**OC: 06/17/12**

**Claimant: Appellant (4-R)**

Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from the July 25, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 22, 2012. Claimant participated. Angie Stevens, human resources generalist, represented the employer. The administrative law judge took official notice of the agency's administrative record of quarterly wages reported for the claimant (WAGE A) and the agency's administrative record concerning information the claimant provided to the agency at the time he established his claim for benefits (DBRO).

**ISSUES:**

Whether Mr. Thomas separated from his employment at Cargill Meat Solutions Corporation for a reason that disqualifies him for unemployment insurance benefits.

Whether Mr. Thomas separated from his employment at Cargill Meat Solutions Corporation for the sole purpose of accepting other, better employment and did in fact performed work for the new employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Earl Thomas was employed by Cargill Meat Solutions Corporation as a full-time production worker from 2008 and last performed work for the employer on May 17, 2012. On that day, Mr. Thomas notified his supervisor that he was giving his two-week notice of quit. Mr. Thomas told the employer he had another job lined up. Mr. Thomas had accepted, but had not yet started, new employment with Carriker Ford, Inc., a U.S. Cellular agent. Had Cargill meat solutions allowed Mr. Thomas to work out his two-week notice period, his last day in the employment would have been May 31, 2012. When Mr. Thomas told the supervisor he was giving notice of quit, with plans to leave for other employment, the supervisor ended the employment immediately. For some reason, Cargill Meat Solutions documented a June 7, 2012 separation.

Mr. Thomas started his new job with Carriker Ford, Inc., on June 8, 2012. Mr. Thomas subsequently established a claim for unemployment insurance benefits that was effective June 17, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

Iowa Code section 96.5(1)(a) provides as follows:

Causes for disqualification.

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, *and the individual performed services in the new employment*. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

[Emphasis added.]

The administrative law judge must follow the plain language of the statute.

Mr. Thomas voluntarily quit the Cargill Meat Solutions Corporation employment without good cause attributable to that employer, effective May 31, 2012. For that reason, Cargill Meat Solutions Corporation's account shall not be charged for benefits paid to Mr. Thomas. Because Mr. Thomas did not establish his claim for unemployment insurance benefits until June 17, 2012, Cargill Meat Solutions Corporation's decision not to allow Mr. Thomas to work out his quit notice period would have no impact on Mr. Thomas's eligibility for benefits or the employer's liability for benefits.

Because Mr. Thomas quit the Cargill Meat Solutions Corporation employment for the sole purpose of accepting other employment and did perform work for the new employer, the separation from Cargill Meat Solutions Corporation would not disqualify Mr. Thomas for unemployment insurance benefits. Instead, Mr. Thomas is eligible for benefits, effective June 17, 2012, provided he is otherwise eligible.

**DECISION:**

The Agency representative's July 25, 2012, reference 01, decision is modified as follows. The claimant voluntarily quit the employment without good cause attributable to that employer, effective May 31, 2012, for the sole purpose of accepting other employment and did perform work for the new employer. Cargill Meat Solutions Corporation's account shall not be charged for benefits. The claimant is eligible for benefits, effective June 17, 2012, provided he is otherwise eligible.

This matter is remanded to the Claims Division for adjudication of the claimant's separation from employer Carriker Ford, Inc., employer account number 025076, unless that employer has waived its right to contest the claim by failing to file a protest.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw