

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

WALTER J HAYDEN  
312 GLENDALE ST  
WATERLOO IA 50703-5134

SWIFT & COMPANY  
c/o EMPLOYERS UNITY INC  
NOW TALX CORPORATION  
PO BOX 749000  
ARVADA CO 80006-9000

Appeal Number: 06A-UI-01884-RT  
OC: 01/15/06 R: 03  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Walter J. Hayden, filed a timely appeal from an unemployment insurance decision dated February 10, 2006, reference 02, denying unemployment insurance benefits to him. After due notice was issued, a telephone hearing was held on March 6, 2006, with the claimant participating. Bobbi Hobbs testified for the claimant. The administrative law judge attempted to reach a second witness for the claimant, Rose Hill but reached only her voicemail. Jeremy Cook, Human Resources Manager, participated in the hearing for the employer, Swift & Company. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer as a full-time maintenance mechanic from January 14, 2003, until he voluntarily quit on January 13, 2006. On that day the claimant called the human resources department of the employer and informed that department he was quitting. Later that day the claimant came into the employer's location and turned in his equipment and picked up his tools. At that time the claimant did not say why he was quitting. The claimant now alleges that he was intimidated and threatened by his second-shift maintenance supervisor. The claimant testified that he was informed by another employee that the claimant should be careful of what the second-shift maintenance supervisor had in his pocket. The claimant then testified that he saw the second-shift maintenance supervisor handling what looked like a weapon or small handgun. However, the second-shift maintenance supervisor never carried such a weapon. The claimant could provide no other specifics about how he was intimidated or threatened by his second-shift supervisor. Sometime immediately prior to the claimant's quit he went to human resources complaining of bugs on his skin. Both the human resources person and the employer's nurse were present and found no bugs. The claimant still complained of bugs on his skin so he was sent to a mental health provider who diagnosed the claimant as having a mental disorder. Medication was prescribed for the claimant.

#### REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

Iowa Code section 96.5-1 provides:

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.

871 IAC 24.26(2), (3), (4) provide:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (2) The claimant left due to unsafe working conditions.
- (3) The claimant left due to unlawful working conditions.
- (4) The claimant left due to intolerable or detrimental working conditions.

The parties agree, and the administrative law judge concludes, that the claimant left his employment voluntarily on January 13, 2006. The issue then becomes whether the claimant left his employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that he has left his employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet his

burden of proof to demonstrate by a preponderance of the evidence that he left his employment with the employer herein with good cause attributable to the employer. The claimant testified that he left his employment because he felt intimidated and threatened by his second-shift maintenance supervisor. The only specific reason the claimant could give for believing that he was threatened and intimidated was that he saw his second-shift supervisor handling what looked like a weapon or small handgun. However, there is no other evidence that the second-shift supervisor ever had a handgun at work. When the employer heard of these allegations it immediately conducted an investigation and found no evidence that the second-shift maintenance supervisor ever had a handgun. The claimant was unable to provide any other specifics about any intimidation or threats by the second-shift maintenance supervisor. The administrative law judge must note that the claimant's testimony was not credible. The claimant testified that on two occasions he had bugs on his skin. On at least one occasion he went to the human resources office and was checked by both human resources and the employer's nurse and nothing was found and the claimant was then sent to or taken to a mental health provider where the claimant was diagnosed with a mental disorder. The claimant also alleged that people were watching him and that he saw individuals in the attic in his house but when asked how that was related to the alleged intimidation and threats from his second-shift maintenance supervisor the claimant had no response. The claimant did say something to the effect that his second-shift maintenance supervisor had taken time from him but that it had been repaid to him. The claimant did receive vacation pay for more than his hourly rate but this is common for the employer.

In summary, and for all the reasons set out above, the administrative law judge concludes that the claimant has not demonstrated by a preponderance of the evidence that his working conditions were unsafe, unlawful, intolerable or detrimental or that he was subjected to a substantial change in his contract of hire. Accordingly, the administrative law judge concludes that the claimant left his employment voluntarily without good cause attributable to the employer and, as a consequence, he is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until, or unless, he requalifies for such benefits.

#### DECISION:

The representative's decision of February 10, 2006, reference 02, is affirmed. The claimant, Walter J. Hayden, is not entitled to receive unemployment insurance benefits, until, or unless, he requalifies for such benefits, because he left his employment voluntarily without good cause attributable to the employer.

cs/tjc