

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOEY A HARLAND
Claimant

APPEAL NO. 08A-UI-11798-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MILLARD REFRIGERATED SERVICES INC
Employer

OC: 11/09/08 R: 03
Claimant: Respondent (2/R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Millard Refrigerated Services, Inc. (employer) appealed a representative's December 4, 2008 decision (reference 01) that concluded Joey A. Harland (claimant) was qualified to receive 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 January 2, 2009. The claimant participated in the hearing. Sara Cross and Tim Ash, the operations 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 benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for a temporary firm at the employer's business before the employer hired him as an employee on May 27, 2008. The employer hired the claimant to work as a full-time forklift operator. The claimant understood the employer's policy required employees to contact the employer when the employee was unable to work as scheduled. The employer's policy also informs employees that the employer considers an employee to have voluntarily quit or abandon the job if the employee does not call or report to work for three days.

The claimant's last day of work was July 15, 2008. The claimant was ill and unable to work on July 16, 17, 18, and 19. He called the employer's office these days. When a receptionist answered the phone, she tried to transfer the claimant to his supervisor. The claimant did not talk to his supervisor but was told his supervisor would call him back. The claimant's supervisor did not call him back to work.

The claimant was able to work to work on July 21. The claimant did not return to work because he assumed the employer discharged him when his supervisor did not call him back the

previous week. The claimant did not contact the employer during the week of July 21. On July 25, the employer sent the claimant a letter informing him that his employment had been terminated as of July 21, 2008. Ash had no knowledge the claimant called the office July 16 though 19 to report he was ill and unable to work.

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 and employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts indicate the claimant initiated his employment separation when he failed to report to work or contact the employer the week of July 21 when he was well and able to work. The claimant did not take reasonable steps the week of July 21 when he incorrectly assumed he had been discharged and did nothing to clear up any potential miscommunication about whether he did or did not notify the employer the previous week that he had been ill and unable to work. The claimant's failure to contact the employer any time during the week of July 21 constitutes a voluntary quit.

It was illogical for the claimant to assume he had been discharged if he notified the employer on July 16, 17, 18, and 19 to report he was ill and unable to work. The facts establish the claimant abandoned his employment the week of July 21 for reasons that do not qualify him to receive benefits. If the claimant had contacted the employer on July 21, he may have been able to continue his employment by explaining to Ash or other management personnel that he had called the previous week to let the employer know he was ill land unable to work. As of November 9, 2008, the claimant is not qualified to receive benefits.

The issue of whether the claimant has been overpaid or is eligible for a waiver of any overpayment is remanded to the Claims Section to determine.

DECISION:

The representative's December 4, 2008 decision (reference 01) is reversed. The claimant voluntarily quit his employment by abandoning it during the week of July 21, 2008. The claimant quit for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of November 9, 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. The issue of whether the claimant has been overpaid or is eligible for a waiver of any overpayment is remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw