

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ABEDNEGO J ROSS

Claimant

APPEAL NO. 14A-UI-02003-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT PORK COMPANY

Employer

OC: 01/19/14

Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated February 11, 2014, reference 01, that concluded the claimant voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on March 13, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Frank Heffron. Aureliano Diaz participated in the hearing on behalf of the employer with a witness, Rich Boucher.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer in a position at the shackle table from June 12, 2012, to January 6, 2014.

The shackle table is next to the Butina CO2 machine that is used to stun pigs before they are butchered. The claimant experienced repeated instances of illness that he attributed to raised levels of CO2 coming from the Butina machine. The employer in fact often had safety personnel and maintenance employees in the claimant's work area monitoring the CO2 levels, which were sometimes elevated. There were sensors in the claimant's work area that would go off triggered by the CO2 levels. The employer would attempt to remedy the problem by turning on exhaust fans.

The claimant was seen by a doctor who advised the claimant to switch to a different job. When he reported his problems to the company nurse, they were attributed to his smoking habit. He was not switched to a different job. He reported the problems to a supervisor and was told to hang in there.

The claimant quit his employment on January 6, 2014, due to unhealthy working conditions.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

The unemployment insurance rules provide that a claimant is qualified to receive benefits if compelled to leave employment due to a medical condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work caused or aggravated the medical condition and made it impossible for the claimant to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related medical condition and that the claimant intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I believe the claimant and his witness's testimony that conditions at work were making the claimant ill, he reported his problems to the company nurse and supervisor, and he requested to switch jobs. His testimony was corroborated by his coworker's testimony. Even the supervisor, Rich Boucher, admitted there were times when monitoring shows some elevated levels of CO2. The problems causing the claimant's illness were not corrected. Even if the claimant is more susceptible to CO2, exposure, he would have good cause to quit under the circumstances here. He substantially complied with 871 IAC 24.26(6)b by notifying the employer about the unsafe working conditions and requesting to be switched to another job. He acted reasonably in quitting his job under the circumstances here. *See O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993) (in deciding good cause to quit due to working conditions, the inquiry involves whether a reasonable person would believe the working conditions necessitated the person's quitting).

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DECISION:

The unemployment insurance decision dated February 11, 2014, reference 01, is affirmed. 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/pjs