

**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**

**JOHN KOANG  
1702 S 7<sup>TH</sup> AVE APT 9  
MARSHALLTOWN IA 50158-4102**

**SWIFT & COMPANY  
C/o EMPLOYERS UNITY INC  
PO BOX 749  
ARVADA CO 80006-9000**

**Appeal Number: 06A-UI-07519-ET  
OC: 06-25-06 R: 02  
Claimant: Respondent (2)**

**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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from a decision dated July 20, 2006, reference 01, that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 14, 2006. The claimant participated in the hearing with Interpreter Robert Talang. Aaron Vawter, Human Resources Coordinator, participated in the hearing on behalf of the employer. The issue of whether the claimant voluntarily left his position for good cause attributable to the employer was left off the hearing notice and the claimant waived notice on that issue.

FINDINGS OF FACT:

Having heard the testimony and examined the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time production worker for Swift & Company from June 14, 2004 to June 20, 2006. On June 19, 2006, the claimant cut his left index finger and was treated by the employer. He was placed in a job which only required the use of one hand and performed that job for three days before going to his own physician June 23, 2006, who X-rayed his finger and found it was broken. His doctor placed him on light duty and stated he could return to work on June 28, 2006. The claimant did not call the employer June 23, 27, 28 or 29, 2006, but returned to work on June 30, 2006, and provided the employer with his doctor's note excusing him on June 23 and June 27, 2006. The employer accepted his note and was willing to overlook the no-call no-shows. During the meeting about the situation the claimant stated he did not want to work a job with just one hand and also said his doctor told him he needed to be in the "glove room" where employees with restrictions the employer cannot accommodate spend their workday. The employer further examined the claimant's medical documentation but it did not say he needed to be in the glove room but did say he could only use his right hand. The claimant became upset and stated that if he was not assigned to the glove room he did not want to continue working at Swift. The employer tried to explain the situation again but the claimant was adamant that he would not work a one-handed job on the production floor and the employer accepted his resignation.

The claimant has received unemployment insurance benefits since his separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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.

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 from whom the employee has separated. 871 IAC 24.25. Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. While the claimant was upset that he was not assigned to the glove room, neither his doctor nor the company doctor recommended he be kept in the glove room. On the contrary, both physicians stated he could use his right hand and the employer had three jobs that could be done with one hand, one of which the claimant performed for three days prior to going to his doctor. Although the claimant testified he was required to work with both hands on the production floor, his testimony was not consistent and the administrative law judge concludes the evidence establishes he voluntarily left his position without good cause attributable to the employer. Therefore, benefits are denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The July 20, 2006, reference 01, decision is reversed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant is overpaid benefits in the amount of \$2,388.00.

je/pjs