

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HASSAN I HASSAN**  
Claimant

**APPEAL NO. 09A-UI-00325-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT & COMPANY**  
Employer

**OC: 11/09/08 R: 12**  
**Claimant: Respondent (2/R)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Swift & Company (employer) appealed a representative's January 2, 2009 decision (reference 01) that concluded Hassan I. Hassan (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant's employment separation was for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 26, 2009. The claimant participated in the hearing. Tony Luse, the employment manager, appeared on the employer's behalf. Francis Chan interpreted the hearing. 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 started working for the employer on May 21, 2007. The claimant worked as a full-time employee. During the claimant's employment, he had some problems working with other employees. Prior to November 13, the employer talked to the claimant about failing to follow a supervisor's directions. Even with these previous incidents, the claimant's job was not in jeopardy on November 13, 2008.

On November 13, 2008, the claimant was working on a production line when another employee threw meat at him. Bone from the meat scratched the claimant's hand. The claimant reported this incident to his supervisor. The claimant went to the office to report problems he had with a co-worker. The claimant told Luse that a co-worker threw meat at him and bone in the meat scratched the claimant. The claimant did not know the employee's name. Luse indicated he would investigate the claimant's complaint.

Luse investigated and after determining the identity of the co-worker the claimant had complained about, Luse had this employee report to his office. The co-worker denied throwing

any meat at the claimant. Other employees, who worked with both men, indicated they had not seen anyone throw any meat at the claimant. When the co-worker returned from Luse's office, he laughed and taunted the claimant. The co-worker made the comment that he could do anything he wanted. Even though co-workers did not support the claimant's version of events, the employer decided to transfer the claimant to another line so there would not be any further problems between the claimant and this employee. The line the employer asked the claimant to move to performed the same work as the line the claimant had been working. The new line just worked at a slower pace.

When the claimant's supervisor told the claimant to go to another line to work, the claimant became upset and refused to transfer to another line. The claimant wanted the other employee transferred because the claimant had not done anything wrong. After the claimant refused to work at another line, the supervisor brought the claimant to Luse's office. The claimant was very upset when he returned to the office for the second time that day. Union representatives were also present. While the employer tried to get the claimant to calm down to explain why the employer transferred him to another line, the claimant laid his ID badge on the table. The claimant said he quit and then walked out. The claimant went to the local police station to file a complaint against his co-worker.

On November 13, the employer had not planned to discharge the claimant. Once the claimant had calmed down, the employer would have either given him a warning or suspended him for refusing to follow his supervisor's direction about working on another line.

#### **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 an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts establish the claimant was very upset after the employer directed him to work at another line. The claimant did not realize the employer transferred him so he would not have any more problems with a co-worker. The claimant incorrectly concluded the employer was not treating him fairly. The claimant asserted the employer told the claimant to leave his badge and go home. The employer, however, testified the employer was still in the process of trying to reason with the claimant when he laid his badge on the table, indicated he was quitting, and walked off the job. Under either version, the claimant acknowledged the employer did not discharge him on November 13, 2008. Since the claimant testified the employer told him the employer would call him later and did not, the claimant's failure to contact the employer supports the employer's version that the claimant quit when he laid his badge on a table and left work. The evidence establishes the claimant was very agitated after the employer transferred him to another line. The claimant was very upset because he believed the employer did not treat him fairly. While the claimant was very upset, he quit. The claimant's failure to have any contact with the employer after he left supports a conclusion that the claimant voluntarily quit his employment.

When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6-2. The law presumes a claimant voluntarily quits employment with good cause when he leaves because of intolerable or detrimental working conditions. 871 IAC 24.26(4).

The facts show that after the claimant complained about a co-worker throwing meat at him, the employer investigated the claimant's complaint. The employer's decision to transfer the claimant to another line so he would not have further problems by working with this employee was reasonable. The claimant did not like the employer's immediate solution to his complaint.

No other employee, however, supported the claimant's version. The employer did not punish the claimant or treat him unfairly. The claimant did not establish that he quit for reasons that qualify him to receive benefits.

In the alternative, if the employer discharged the claimant, the employer discharged him for work-connected misconduct when the claimant refused to follow his supervisor's directions to work on another line. Under either scenario, as of November 9, 2008, the claimant is not qualified to receive benefits.

Since the claimant has filed claims and received benefits since November 9, the issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is remanded to the Claims Section to determine.

**DECISION:**

The representative's January 2, 2009 decision (reference 01) is reversed. The claimant voluntarily quit his employment 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 overpayment or whether the claimant is eligible for a waiver of any overpayment is remanded to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw