

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL A GREINER
Claimant

APPEAL NO: 12A-UI-00390-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PIONEER HI-BRED INTERNATIONAL INC
Employer

OC: 11/13/11
Claimant: Respondent (2/R)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 29, 2011 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated in the hearing. Adam Anderson, the production plant manager, and Scott Proctor, the claimant's supervisor, appeared on the employer's behalf. During the hearing, Employer Exhibits One through Four were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for reasons that constitute work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer as a full-time regular employee, not a temporary employee, in November 2009.

After mistakes were made by temporary employees that the claimant gave directions to on October 27, 2011, the claimant believed the employer would discharge him. At the beginning of shifts, the employer held meetings. During the October 28 meeting, the employer talked about the mistakes that were made the day before and what could be done so the mistakes would not be made again. After the meeting, the claimant still felt responsible for the problems that occurred the day before. The claimant felt personally responsible for the mistakes other employees made and was humiliated that the mistakes happened. (Employer Exhibit Two.) The claimant sent his supervisor, Proctor, an email after the meeting at 2:33 p.m. and gave the employer his two-week notice. (Employer Exhibit One.)

Proctor forwarded the claimant's resignation notice to Anderson, who in turned forwarded the resignation to the employer's human resource department. Later in the afternoon, Proctor asked to talk to the claimant. After learning, the employer had no plans to discharge or even

reprimand him; the claimant asked Proctor if he could rescind his resignation. Proctor tore up the claimant's resignation, but told the claimant he did not know if the employer would allow him to rescind his resignation.

On October 29, Proctor informed Anderson about his conversation with the claimant the day before and that the claimant asked if he could rescind or withdraw his resignation. (Employer Exhibit Four.) On October 31, Anderson sent the human resource representative a message about the claimant's request to rescind his resignation. (Employer Exhibit Four.)

After talking to the claimant and getting more information from the claimant on October 31, (Employer Exhibit Three), the employer decided the claimant's request to rescind his resignation would not be granted. The employer then accepted the claimant's resignation effective immediately. The claimant's last day of work was October 31 instead of November 11, 2011. The claimant established a claim for benefits during the week of November 13, 2011.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (2)a.

The facts establish the claimant sent the employer his notice of resignation on October 28 informing the employer he was resigning and his last day of work would be in two weeks. A couple of hours after the claimant submitted his resignation, he asked Proctor if he could withdraw or rescind his resignation. After thinking about the claimant's request, the employer declined the claimant's request to rescind or withdraw his resignation. Also, the employer accepted the claimant's resignation effective immediately. When a claimant gives advance notice of his resignation which results in the employer discharging the claimant prior to the effective of the resignation, no disqualification is imposed from the last day of work until the effective date of the resignation. 871 IAC 24.25(38). Since the claimant did not establish a claim for benefits until the week of November 13 or after November 11, the effective of his resignation, 871 IAC 24.25(38), does not apply.

The claimant initiated his employment separation and quit when he emailed his resignation notice to Proctor on October 28, 2011. When a claimant quits, he has the burden to establish he quits for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits without good cause when he leaves employment because he believes his job performance is not satisfactory even though the employer has not asked the claimant to leave his employment. 871 IAC 24.25(33).

Even though the claimant later admitted he made a knee-jerk decision when he submitted his resignation, he quit when he sent the email to Proctor. The employer then could either accept his resignation or allow the claimant to withdraw his resignation. The employer decided to accept his resignation. The claimant is disqualified from receiving benefits because he submitted he resigned for reasons that do not qualify him to receive benefits. As of November 13, 2011, the claimant is not qualified to receive benefits.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits he may have received since November 13, 2011, will be remanded to the Claims Section to determine.

DECISION:

The representative's December 29, 2011 determination (reference 01) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment when he submitted his resignation on October 28 and the employer did not accept the claimant's attempt to withdraw his resignation. The claimant quit for personal reasons. His reasons for resigning do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of November 13, 2011. 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css