

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD J HELFRICH
Claimant

APPEAL NO. 08A-UI-02270-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MILLARD REFRIGERATED SERVICES INC
Employer

**OC: 02/03/08 R: 04
Claimant: Respondent (2)**

Section 96.5(1) – Voluntary Quit
Section 96.5(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Millard Refrigerated Services, Inc. (Millard) filed an appeal from a representative's decision dated February 26, 2008, reference 01, which held that no disqualification would be imposed regarding Richard Helfrich's separation from employment. After due notice was issued, a hearing was held by telephone on March 24, 2008. Mr. Helfrich participated personally and offered additional testimony from David Sanderson. The employer participated by Todd Rogers, General Manager, and Randy Willits, Shift Supervisor.

ISSUE:

At issue in this matter is whether Mr. Helfrich was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Helfrich began working for Millard on May 21, 2007 and was employed full time as a warehouse checker. On February 4, 2008, he was tipping dividers from pallets of roast beef when he was told by his supervisor, Randy Willits, to begin loading a different truck. Mr. Helfrich refused and suggested Mr. Willits have another employee unload the truck. Mr. Willits again directed Mr. Helfrich to unload the truck and he again refused. He was told to either perform the work as directed or go home for the day. Mr. Helfrich indicated he was not going home. He was told he would be discharged if he did not leave, to which Mr. Helfrich responded that Mr. Willits did not have the authority to discharge.

Mr. Willits indicated to Mr. Helfrich that they would continue the conversation upstairs. It was Mr. Willits' intent to discipline Mr. Helfrich for being insubordinate and then refer the matter to Todd Rogers. Mr. Rogers is the only one with the authority to discharge individuals. When Mr. Helfrich entered the room upstairs, he slammed the door. Mr. Willits indicated they would have other problems if he damaged company property. Mr. Helfrich responded by saying "fuck this" and leaving. He did not report for scheduled work after that point.

A coworker, David Sanderson, asked Mr. Willits on February 5 if Mr. Helfrich still had a job. He was told that he did but that he would have to come in, sign papers, and meet with Mr. Willits. Mr. Sanderson conveyed this information to Mr. Helfrich on February 6. Mr. Helfrich did not make any inquiry regarding his employment until February 15. At that point, his job was no longer available to him.

Mr. Helfrich filed a claim for job insurance benefits effective February 3, 2008. He has received a total of \$1,542.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that Mr. Helfrich initiated his separation when he walked off the job on February 4 and failed to return for scheduled work subsequent to that date. He knew Mr. Willits did not have the authority to discharge him and stated this to Mr. Willits on February 4. Therefore, he knew or should have known that the meeting upstairs was only to discipline him, not discharge him. Moreover, he was told by a coworker on February 6 that he still had a job at Millard but he did not return at that point. For the above reasons, the separation is considered a voluntary quit. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Having taken the position that he was discharged, Mr. Helfrich did not offer any reason he would quit his job with Millard.

The evidence of record does not establish any good cause attributable to Millard for Mr. Helfrich's quit. As such, the separation was a disqualifying event. Even if the administrative law judge were to conclude that the separation was a discharge, he still would not be entitled to job insurance benefits. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982).

Mr. Helfrich was clearly insubordinate towards Mr. Willits on February 4. He twice refused to move to a different task as directed by his supervisor. Although he may have felt that another worker should have been asked to unload the truck, it was Mr. Willits' decision as to who would perform what work. The task Mr. Helfrich was being asked to perform on February 4 was within his job description. Mr. Helfrich also told Mr. Willits that he was not going home as directed. The employer has the right to expect that employees will follow all reasonable directives from supervisors. Mr. Helfrich breached his obligation to the employer when he refused to perform as directed by his supervisor on February 4. For the reasons stated herein, the administrative law judge concludes that his conduct of February 4 constituted a substantial disregard of the standards the employer had the right to expect.

Mr. Helfrich's separation from Millard was a disqualifying event, based either on his voluntary quit without good cause attributable to the employer or his discharge for misconduct. He has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated February 26, 2008, reference 01, is hereby reversed. Mr. Helfrich was separated from Millard for disqualifying reasons. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Helfrich has been overpaid \$1,542.00 in job insurance benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs