

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

QUENTIN SCOTT
Claimant

APPEAL NO: 14A-UI-04414-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 04/06/14
Claimant: Appellant (4)

Section 96.5-1 a – Voluntary Leaving – Other Employment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 24, 2014, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 19, 2014. The claimant participated in the hearing. Shannon Weir, Human Resources Clerk, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment to accept employment elsewhere.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time production worker for Tyson Fresh Meats from January 30, 2012 to February 14, 2014. Continued work was available. The claimant left employment with Tyson to accept other employment with the Spokane Shock of the Arena Football League and performed services for that employer. While he did not receive a paycheck from the Shock, his food and hotel room were paid for by the employer until he was released from the team. He tried desperately to get an approved leave of absence to cover the two weeks of work he was absent but the employer did not acknowledge his several emails until it was too late for the claimant to receive a leave of absence and he was advised to simply quit his job with Tyson.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment to accept employment elsewhere.

Iowa Code section 96.5(1)a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of Tyson Fresh Meats shall not be charged.

DECISION:

The April 24, 2014, reference 01, decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css