

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAURICE JONES
Claimant

APPEAL NO: 10A-UI-08956-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON RETAIL DELI MEATS INC
Employer

OC: 09/27/09
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Maurice Jones (claimant) appealed an unemployment insurance decision dated June 15, 2010, reference 06, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Tyson Retail Deli Meats, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 10, 2010. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted, and therefore, did not participate. Claimant's Exhibits A, B, C, D, and E were admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time production worker from April 9, 2010 through May 13, 2010. He was arrested after work on May 13, 2010 and incarcerated until May 21, 2010. The employer terminated the claimant from its system on May 20, 2010 due to job abandonment. The criminal charges against the claimant were subsequently dismissed due to insufficient evidence.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

Iowa Code § 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.

871 IAC 24.25(16) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

The claimant discontinued working because he was in jail. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer. He is disqualified.

The outcome of this case would have been the same if the administrative law judge had concluded that the employer discharged the claimant. His absences due to incarceration were excessive unexcused absences and constituted misconduct. See Iowa Code § 96.5(2)(a) and 871 IAC 24.32(7).

DECISION:

The unemployment insurance decision dated June 15, 2010, reference 06, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs