

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**MATTHEW A SNYDER
PO BOX 93
OLLIE IA 52576-0093**

**MILLARD REFRIGERATED SERVICES INC
C/O TALX UCM SERVICES
PO BOX 283
ST LOUIS MO 63166-0283**

**Appeal Number: 06A-UI-06644-HT
OC: 06/04/06 R: 03
Claimant: Appellant (5)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Matthew Snyder, filed an appeal from a decision dated June 20, 2006, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on July 18, 2006. The claimant participated on his own behalf. The employer, Millard Refrigerated Services, Inc. (Millard), participated by Office Manager Tammy Ash and Operations Manager Tim Ash. Exhibits One and Two were admitted into the record.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Matthew Snyder was employed by Millard from August 22, 2005 until June 2, 2006. He was a full-time checker. At the time of hire he received a copy of the employee handbook which sets out the employer's drug test policy.

On May 30, 2006, the claimant was involved in an accident with a pallet jack. He and the other person involved in the accident were both given a drug test as allowed by the employer's policy. The sample was collected by a lead person who had certification and training in the collection of samples, and given in a stall of a restroom. The sample was split and submitted for analysis to Compliance Plus Laboratories.

On June 2, 2006, both the claimant and the employer were notified of a positive drug test. The claimant consulted with Operations Manager Tim Ash about what he should do and he was informed of his right to have the second sample tested, but was told he would get more complete information from Plant Manger Kevin Van Asten. Mr. Snyder did meet that same day with Mr. Van Asten and he was notified he could have the sample retested at a laboratory of his choice, during which time he would be on suspension. Mr. Van Asten told him if the second test came back positive he would be discharged, if it came back negative he would be returned to work. If he did not want to have the second test done he could resign immediately, and he elected to do so.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant quit work for reasons which would disqualify him unemployment benefits.

Iowa Code section 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.

The claimant was properly tested under the employer's drug testing policy. When the results were positive he was given the opportunity to have the split sample retested at a laboratory of his choice and if those results were negative, he would be returned to work. The claimant decided the test results would be the same and elected not to have the second test performed and resigned.

His decision to resign was made even though he knew he had options available to him. He was not in danger of immediate discharge and this was not a circumstance of being required to choose between discharge and resignation. The record establishes the claimant did not have good cause attributable to the employer for quitting and he is disqualified.

DECISION:

The representative's decision of June 20, 2006, reference 01, is modified without effect. Matthew Snyder was discharged for misconduct and he is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/pjs