

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM H LUNDBOHUM
Claimant

APPEAL NO. 13A-UI-01957-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 01/20/13
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, William Lundbohum, filed an appeal from a decision dated February 15, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on March 18, 2013. The claimant participated on his own behalf and was represented by Nick Platt. The employer, Tyson, participated by Employment Manager Eloisa Baumgartner, Maintenance Superintendent Randy Leesley, and Maintenance Supervisor Jose Cerna.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

William Lundbohum was employed by Tyson from November 1, 2010 until December 23, 2013 as a full-time maintenance person. At the time of hire he received a copy of the employee handbook. The employer's policy requires anyone who is going to be absent for a scheduled shift to notify a supervisor at least 30 minutes before the start of the shift. The policy further notifies employees that five days of no-call/no-show to work is considered a voluntary quit.

He was no-call/no-show to work on December 28, 29, 30, 2012, and January 3 and 4, 2013. Two supervisors had come to his house around December 23, 2012, to ask why he had not been at work and he said he was looking for another job. He was unhappy over certain things which had been happening at work and the supervisors told him to come in to discuss the details and they would try to resolve the problems. Mr. Lundbohum said he had a job interview that day and would be in later. He never came back.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(4) 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 section 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 section 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant was given the opportunity to discuss his concerns with his supervisors but declined to do so. Instead he chose to continue to be no-call/no-show to work and was considered a voluntary quit.

His concerns could have been resolved by the employer as many of his stated problems were simply a matter of perception and misunderstanding between himself and the supervisors and co-workers. He chose to discontinue coming to work rather than try to effectively communicate his concerns to the employer and allow it a reasonable opportunity to resolve them. This is not good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of February 15, 2013, reference 01, is affirmed. William Lundbohum is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css