

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

ROBERT D SIMS
1204 SANTA CLARA
OSKALOOSA IA 52577

CARGILL MEAT SOLUTIONS CORP
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166 0283

Appeal Number: 06A-UI-02210-DWT
OC: 01/01/06 R: 03
Claimant: Appellant (1)

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 96.5-2 – Voluntary Quit

STATEMENT OF THE CASE:

Robert D. Sims (claimant) appealed a representative's February 14, 2006 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Cargill Meat Solutions Corporation (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 14, 2006. The claimant participated in the hearing. Erica Bleck appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on September 5, 2001. The claimant worked as a full-time bagger.

In the last eight months of his employment, a female employee started working on the same line as the claimant. The female employee kept telling the claimant he worked too slowly. The claimant's supervisor, however, indicated the claimant's work was not a problem. The claimant talked to his supervisor and asked her to talk to the female employee. The claimant was tired of listening to the female employee complain about him and make remarks about the way he worked. The claimant noticed a temporary improvement after his supervisor talked to the employee. The claimant did not realize he could contact the human resources department about problems with a co-worker. The claimant considered the female co-worker's continual negative comments harassment.

On December 19, 2005, the claimant contacted the employer to report his car was not working and he was unable to work as scheduled. The claimant called in sick on December 20. The claimant did not call or report to work on December 21, 22 and 23. On December 27, the claimant called the employer to report he was unable to work because he was going to be sick. The claimant did not call or report to work on December 29 or 30.

On January 3, 2006, the claimant's supervisor called him to find out if the claimant was ill. The claimant informed his supervisor he was not seeing a doctor and he was not returning to work because he was sick of the place. The claimant did not want to work with the female employee any longer.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant voluntarily quit his employment on January 3, 2006. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The law presumes a claimant voluntarily quits without good cause when he quits because he does not like the work environment. 871 IAC 24.25(21). The law also presumes a claimant voluntarily quits with good cause when he quits because of intolerable work conditions. 871 IAC 24.26(4).

The claimant quit because he was tired of a co-worker telling him he worked too slowly. The claimant's supervisor was satisfied with the claimant's work performance. While the co-worker's remarks were irritating, the facts do not establish the claimant worked under intolerable working conditions. The claimant quit because he was "sick of the place," or was not satisfied with his work environment. The claimant established compelling reasons for quitting. His reasons do not, however, establish that he quit for reasons that qualify him to receive

unemployment insurance benefits. As of January 1, 2006, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's February 14, 2006 decision (reference 02) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of January 1, 2006. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/kkf