

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

EDWARD BAKER
912 - 8TH ST SE
CEDAR RAPIDS IA 52401-2402

PARCO LTD
WENDYS OLD FASHIONED HAMBURGERS
998 FREMONT AVE
DUBUQUE IA 52003-0317

Appeal Number: 06A-UI-01843-BT
OC: 01/22/06 R: 03
Claimant: Respondent (2)

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 – Voluntary Quit

STATEMENT OF THE CASE:

Wendy's Old Fashioned Hamburgers (employer) appealed an unemployment insurance decision dated February 9, 2006, reference 01, which held that Edward Baker was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 6, 2006. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Jacque Behrens, General Manager.

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 part-time crew member from March 12, 2005 through December 10, 2005. During the lunch hour on December 10, 2005, the claimant was asking the other employees if they would work for him because he wanted to go home. He was having a bad day and stated that he may have to quit because of transportation issues. The manager told him to quit talking about that during the rush hour and that she would help him later. The claimant continued asking the other employees about working for him and the manager told him to clock out and take his break. The claimant refused and said he wanted to leave. The manager told the claimant if he left, he was done but the claimant left anyway.

The claimant filed a claim for unemployment insurance benefits effective January 22, 2006 but has not received benefits after the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated his intent to quit and acted to carry it out by walking off the job after the manager told him he was done if he left.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant failed to participate in the hearing and has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated February 9, 2006, reference 01, is reversed. 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. There is no overpayment as a result of this decision.

sdb/tjc