

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT A FULLER
Claimant

APPEAL NO. 09A-UI-05637-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 03/08/09
Claimant: Appellant (1)

Section 96.4(3) - Able and Available

STATEMENT OF THE CASE:

Scott Fuller filed an appeal from a representative's decision dated April 2, 2009, reference 03, which held he was voluntarily unemployed. After due notice was issued, a hearing was held by telephone at 10:00 a.m. on May 7, 2009. Mr. Fuller participated personally and offered additional testimony from Samantha Fuller. The employer did not respond to the notice of hearing until approximately 10:30 a.m. The employer was unable to provide a confirmation number to verify that the instructions for participating in the hearing had been followed. Because the employer did not have good cause for not participating at the scheduled time, the administrative law judge declined to reopen the hearing record.

ISSUE:

At issue in this matter is whether Mr. Fuller was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Fuller began working for Hy-Vee, Inc. in September of 2008 as a night stocker. He worked approximately 30 hours each week at the store located in Cedar Falls, Iowa. In November, he moved to Anamosa, Iowa, because he could no longer afford rent. Anamosa is a 1.5 hour drive from Cedar Falls.

Mr. Fuller hoped to transfer to a Hy-Vee store near Anamosa. Because he could no longer work in Cedar Falls, he requested a leave of absence while he sought a transfer. He was told by human resources that he could be on a leave of absence for up to three months. Mr. Fuller's last day of work for Hy-Vee was November 17, 2008. He had not been granted a transfer as of the date of the hearing.

REASONING AND CONCLUSIONS OF LAW:

Mr. Fuller became separated from Hy-Vee when he requested a leave of absence. Under such circumstances, an individual is considered voluntarily unemployed and, therefore, ineligible for

job insurance benefits. 871 IAC 24.22(2)j. Mr. Fuller was granted a leave of absence for up to three months. Therefore, his leave expired in mid-February of 2009. An individual who fails to return to work at the expiration of a leave of absence is considered to have voluntarily quit employment and is not eligible for job insurance benefits. 871 IAC 24.22(2)j(2).

For the reasons cited herein, Mr. Fuller is not entitled to job insurance benefits on his claim filed effective March 8, 2009.

DECISION:

The representative's decision dated April 2, 2009, reference 03, is hereby affirmed. Mr. Fuller is ineligible to receive job insurance benefits as he is voluntarily unemployed. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css