

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

SEAD ALAGIC
812 MARSH ST
WATERLOO IA 50701

TYSON RETAIL DELI MEATS INC
% TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-07360-CT
OC: 06/06/04 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(1) – Voluntary Quit

STATEMENT OF THE CASE:

Sead Alagic filed an appeal from a representative's decision dated July 2, 2004, reference 02, which denied benefits based on his separation from Tyson Retail Deli Meats, Inc. (Tyson). After due notice was issued, a hearing was held by telephone on August 9, 2004. Mr. Alagic participated personally. The employer participated by Paul Hunziker, Operations Manager. Azra Sikiric participated as the interpreter.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Alagic worked for Tyson from October 16, 1999 until March 22, 2004 as a full-time production worker. He voluntarily left the employment to become an independent contractor with Warren Transport. Continued work would have been available if he had not quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Alagic was separated from employment for any disqualifying reason. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1). Mr. Alagic had the burden of proving that his quit was for good cause attributable to Tyson. Iowa Code Section 96.6(2). The term "good cause attributable to the employer" generally refers to some matter over which the employer has control. In the case at hand, Mr. Alagic quit to work elsewhere. This was not a matter over which Tyson had control.

Mr. Alagic quit his employment with Tyson to become an independent contractor. The administrative law judge considers an independent contractor relationship to be self-employment. An individual who quits work to enter self-employment is disqualified from receiving job insurance benefits. See 871 IAC 24.25(19). An individual who leaves work to accept employment elsewhere is allowed benefits under Iowa Code Section 96.5(1)a. However, based on the provisions of 871 IAC 24.25(19), it is clear that self-employment is not the type of "employment" contemplated by Section 96.5(1)a.

After considering all of the evidence, the administrative law judge concludes that Mr. Alagic voluntarily quit his employment for no good cause attributable to the employer and does not qualify for benefits under any exception to the law. Accordingly, benefits are denied.

DECISION:

The representative's decision dated July 2, 2004, reference 02, is hereby affirmed. Mr. Alagic voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as 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.

cfc/kjf