

**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**

**MELVERN L BUTTS  
3010 AMHERST ST  
DES MOINES IA 50313-4603**

**TITAN TIRE CORPORATION  
2345 E MARKET ST  
DES MOINES IA 50317**

**Appeal Number: 06A-UI-03883-CT  
OC: 03/12/06 R: 02  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Melvern Butts filed an appeal from a representative's decision dated March 31, 2006, reference 01, which denied benefits based on his separation from Titan Tire Corporation (Titan). After due notice was issued, a hearing was held by telephone on April 26, 2006. Mr. Butts participated personally. The employer participated by Joyce Kain, Human Resources Manager.

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. Butts began working for Titan on June 13, 1988

and last performed services on November 11, 2005. He was employed full time as a production worker. He left employment in November to take a medical leave of absence. The leave was for 30 days but could be extended if medical documentation was provided to support the extension.

Mr. Butts' last period of leave expired on January 14, 2006. He was at the workplace in early February and was reminded that the employer did not have a doctor's statement for the period after January 14. When the employer still had not received medical documentation by February 20, a letter was sent to Mr. Butts advising that he no longer had employment with Titan. The certified letter was signed for on February 23 but Mr. Butts did not contact the employer in response to the letter.

While Mr. Butts was away from work, the employer discovered that he had been receiving retirement benefits through the company since 2004. An individual is prohibited from receiving retirement benefits through the company while still working for the company. It was also learned that he had made application for short-term disability payments (STD). On the application for STD, Mr. Butts indicated that he was not receiving income from any other source. In actuality, he had social security benefits and his pension.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Butts was separated from employment for any disqualifying reason. He left employment on November 11, 2005 for medical reasons. However, he failed to provide the employer with documentation of the need to be absent after January 14, 2006. Therefore, the decision was made to discharge him. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). It was not unreasonable for the employer to require medical documentation of an individual's continuing need to be away from work.

It was Mr. Butts' contention that he relied on his doctor to provide the necessary documentation to the employer. However, he knew in February of 2006 that his doctor had not provided the necessary paperwork for the period following January 14. He testified that he contacted the doctor in February after the employer advised him of the missing paperwork. The employer still did not receive anything from either Mr. Butts or his doctor. The administrative law judge is not inclined to believe Mr. Butts did, in fact, contact his doctor in February to obtain the necessary documentation. Having failed to provide documentation on Mr. Butts' behalf for the period after January 14, it seems unlikely that the doctor would again fail to send the documentation if Mr. Butts had made the request in February. Furthermore, Mr. Butts' credibility as a witness is compromised by the fact that he gave false information on claims for benefits.

Mr. Butts' failure to provide the employer with proof that he still needed to be off work constituted a substantial disregard for the standards the employer had the right to expect. He had ample opportunity to provide the employer with the documentation requested. He had over one month to provide the documentation after his last leave of absence expired on January 14 and before the decision was made on February 20 to discharge him. For the reasons stated herein, the administrative law judge concludes that the employer has satisfied its burden of proving that Mr. Butts should be disqualified from receiving benefits.

DECISION:

The representative's decision dated March 31, 2006, reference 01, is hereby affirmed. Mr. Butts was discharged for misconduct in connection with his employment with Titan. 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/tjc