

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL TYLER
Claimant

APPEAL NO: 08A-UI-07347-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 07/06/08 R: 03
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Michael Tyler (claimant) appealed an unemployment insurance decision dated August 4, 2008, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Tyson Fresh Meats, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 27, 2008. The claimant participated in the hearing. The employer participated through Jim Hook, Human Resources Manager. 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:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

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 full-time maintenance technician from September 24, 2007 through July 10, 2008. At the time of hire, the claimant signed for receipt of the employer's drug and alcohol policy which provides that an employee who refuses to be tested for drugs based on reasonable suspicion will be automatically terminated. The claimant's supervisor suspected the claimant was under the influence of alcohol on July 10, 2008 reportedly due to smelling like alcohol. The claimant was advised he needed to provide a urine sample to be tested for alcohol. He denies he was under the influence of alcohol but refused to be drug tested because he believed the employer had ulterior motives for testing him. The claimant was advised he would be discharged if he refused to be tested and he voluntarily quit so he did not have a "stain" on his employment record.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment

insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit his employment on July 10, 2008 because he was going to be discharged for refusing to take a drug test. He was suspected of being under the influence of alcohol and was asked to provide a urine sample to be tested and he refused. At the time of hire, he signed for receipt of the employer's drug and alcohol policy which provides that refusal to take a drug test would result in immediate termination. The claimant voluntarily quit after he was advised his continued refusal would result in his termination.

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. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated August 4, 2008, reference 01, is affirmed. 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.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs