

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

GATLUAK T LAM
2519 CLARKSON AVE APT 7-B
DES MOINES IA 50310

SWIFT & COMPANY
c/o EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006 9000

Appeal Number: 04A-UI-10282-DWT
OC: 08/29/04 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, 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 are 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:

Gatluak T. Lam (claimant) appealed a representative's September 15, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Swift & Company (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 9, 2004. The claimant participated in the hearing. Daniel Lock interpreted the hearing. Jeremy Cook, the human resource manager, appeared on the employer's behalf. 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:

Did the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 9, 2001. The claimant worked as a full-time production worker. When the claimant worked for the employer he lived in Marshalltown.

The claimant was sick on June 5 and did not report to work. The claimant did not call the employer to report he was ill and unable to work as scheduled. The claimant was ill about two weeks. During this time, neither the claimant nor anyone on the claimant's behalf contacted the employer. The claimant did not return to work or contact the employer any time after June 5, 2004.

The claimant moved to Des Moines to look for work. During the week of August 29, 2004, the claimant established a claim for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The evidence establishes the claimant voluntarily quit his employment as of June 5 when he failed to report to work or contact the employer any time after June 5, 2004.

When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2. The law presumes a claimant has voluntarily quit without good cause when the claimant is absent from work for personal reasons but the absence exceeds ten working days. 871 IAC 24.25(20). The evidence shows the claimant may have been ill and unable to work as of June 5, 2004. The claimant, however, failed to notify the employer he was unable to work. Since the claimant made no contact with the employer for over ten working days, the evidence establishes the claimant quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. As of August 29, 2004, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's September 15, 2004 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of September 15, 2004. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/kjf