

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

BILL DOAN  
PO BOX 41714  
DES MOINES IA 50311-0512

TITAN TIRE CORP  
2345 E MARKET ST  
DES MOINES IA 50317

Appeal Number: 06A-UI-02063-A  
OC: 01/29/06 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 Quitting  
871 IAC 24.25(4) – Three Days Absence Without Contact

STATEMENT OF THE CASE:

Bill Doan filed a timely appeal from an unemployment insurance decision dated February 14, 2006, reference 01, which disqualified him for benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, on March 20, 2006. Human Resources Manager Joyce Kain participated for the employer, Titan Tire Corporation. Exhibits One through Three were admitted into evidence. The claimant did not respond when paged at the time of the hearing and again prior to the closing of the record.

#### FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Bill Doan was a production worker for Titan Tire Corporation from February 24, 1998, until January 20, 2006. While on a scheduled vacation in Viet Nam, Mr. Doan lost his passport. This delayed his return. He was scheduled to work on January 16, 17, 18, 19 and 20, 2006. His daughter provided the employer with a letter on January 16, 2006 stating that Mr. Doan would return as soon as he could. The company had no further contact from him.

A provision in the company's collective bargaining agreement with its unionized employees provides that three days of absence without contact is considered a voluntary quit. Mr. Doan's employment ended in accordance with the provisions of the contract.

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the separation from employment was a disqualifying event. It does.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The evidence establishes that Mr. Doan was absent for the week of January 16 through 20, 2006 and that he contacted the employer only on January 16, 2006. In light of the absences without contact from January 17 through 20, 2006 and the provision of the collective bargaining agreement set out in the Findings of Fact, the administrative law judge concludes that the separation was a quit without good cause attributable to the employer. See 871 IAC 24.25(4).

The separation could also be viewed as a discharge for absenteeism. Excessive unexcused absenteeism is one form of misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Absence due to matters of personal responsibility are deemed unexcused whether or not the individual properly reports the absence to the employer. See Harlan v. Iowa Department of Job Service, 350 N.W.2d 192 (Iowa 1984). The evidence here establishes that Mr. Doan left employment because of being absent for five days because of a matter of personal responsibility. Even viewing the separation as a discharge, the administrative law judge would have disqualified the claimant.

#### DECISION:

The unemployment insurance decision dated February 14, 2006, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

cs/tjc