

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

ERIC L PFADENHAUER
5019 CEDAR HEIGHTS
CEDAR FALLS IA 50613

TYSON FRESH MEATS INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-06857-CT
OC: 06/05/05 R: 03
Claimant: Respondent (2)

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(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Tyson Fresh Meats, Inc. (Tyson) filed an appeal from a representative's decision dated June 24, 2005, reference 01, which held that no disqualification would be imposed regarding Eric Pfadenhauer's separation from employment. After due notice was issued, a hearing was held by telephone on July 20, 2005. Mr. Pfadenhauer participated personally. The employer participated by Dave Duncan, Human Resources Manager..

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. Pfadenhauer was employed by Tyson from November 2, 2004 until June 3, 2005 as a full-time production worker. He was presumed to have voluntarily quit when he stopped reporting for available work without notice to the employer.

Mr. Pfadenhauer's last day at work was May 24, 2005. He called in sick on May 25 and May 26. He did not call on May 27. He was scheduled to be at work at 3:30 p.m. He had a doctor's appointment at 2:30 p.m. After the appointment, he went home, fell asleep, and did not awaken until approximately 5:00 p.m. He did not contact the employer at that point or at any point thereafter. Mr. Pfadenhauer believed his absence of May 27 would cause him to exceed the number of attendance points allowed by the employer. He did not confirm his status with the employer and no one in management told him he was fired. The absence of May 27 would have only brought him to nine points, less than the 14 necessary for discharge. Mr. Pfadenhauer learned from someone else on or about June 3 that he no longer had employment with Tyson.

Mr. Pfadenhauer has received a total of \$1,404.00 in job insurance benefits since filing his claim effective June 5, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Pfadenhauer was separated from employment for any disqualifying reason. The administrative law judge concludes that he abandoned his job when he stopped reporting for work. Although he believed he was going to be discharged because of his attendance, this was never confirmed with the employer. He was later told he had been discharged. However, he did not learn this until after he had already missed at least five days without calling in. Mr. Pfadenhauer's decision to stop reporting for work without confirming that he had, in fact, been discharged, constituted a voluntary quit. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1).

The evidence of record does not establish any cause attributable to Tyson for Mr. Pfadenhauer's quit. As such, benefits are denied. He has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated June 24, 2005, reference 01, is hereby reversed. Mr. Pfadenhauer voluntarily quit his employment with Tyson 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. Mr. Pfadenhauer has been overpaid \$1,404.00 in job insurance benefits.

cfc/sc