

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

LUTHER G BATTE JR
702 W MULLAN AVE #1
WATERLOO IA 50701-5966

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

Appeal Number: 06A-UI-04219-CT
OC: 03/12/06 R: 03
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 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(1) – Voluntary Quit

STATEMENT OF THE CASE:

Luther Batte filed an appeal from a representative's decision dated April 4, 2006, reference 01, which denied benefits based on his separation from Tyson Fresh Meats, Inc. (Tyson). After due notice was issued, a hearing was held by telephone on May 4, 2006. Mr. Batte participated personally and offered additional testimony from Robert Batte. The employer responded to the notice of hearing but the designated witness was not available at the number provided at the scheduled time of the hearing.

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. Batte began working for Tyson on June 29,

2004, and last performed services on September 2, 2005. He was employed full-time as a general laborer. After September 2, Mr. Batte was next scheduled to work on September 6. He was arrested and confined to jail on September 4. His brother notified the employer on September 6 that he was in jail and unable to report for work. Mr. Batte's brother was given some indication that the job might be held open if the incarceration was only going to be for a few days.

Mr. Batte remained in jail until November 17, at which time he was sent to prison. He was not released from prison until February 27, 2006. His incarceration was the sole reason for the separation from Tyson. Mr. Batte reapplied for work on March 2 but has not been rehired.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Batte was separated from employment for any disqualifying reason. He had to leave the employment because he was confined to jail. Under such circumstances, an individual is presumed to have left employment for no good cause attributable to the employer. See 871 IAC 24.25(16). The fact that the employer was made aware of his circumstances does not alter the fact that Mr. Batte was unable to maintain his employment because he was in jail. For the above reasons, the administrative law judge concludes that Mr. Batte is not entitled to job insurance benefits pursuant to Iowa Code section 96.5(1).

DECISION:

The representative's decision dated April 4, 2006, reference 01, is hereby affirmed. Mr. Batte left 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.

cfc/kkf