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

JAMES L ROBERTS
Claimant

APPEAL NO. 07A-UI-06143-DWT

ADMINISTRATIVE LAW JUDGE DECISION

TYSON FRESH MEATS INC
Employer

OC: 11/19/04   R: 04
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

James L. Roberts (claimant) appealed a representative's June 13, 2007 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Tyson Fresh Meats, Inc. (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 July 5, 2007. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's representative/witness could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant, 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 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 in April 2007. The claimant accepted employment that was 60 miles from his residence. The claimant understood that as a probationary employee he was allowed six attendance points and would then be discharged.

When the claimant's car did not work, he notified the employer that he had transportation problems and would not be at work. The claimant understood he received three points for this absence. The claimant then used his son's vehicle, until it developed problems and the claimant could not get to work. The claimant again notified the employer that he was unable to work as a result of transportation problems.

The claimant tried to find a co-worker that would take the claimant to work. The claimant's attempts were not successful. Even though the claimant understood the employer wanted him

to continue working, the claimant could not because he did not have transportation to work. The claimant's last day of work was on or about May 23, 2007.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable other employer or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts establish the claimant ended his employment when he encountered transportation problems.

The law presumes a claimant voluntarily quits without good cause when he leaves work because of transportation problems unless the employer agreed to furnish transportation. 871 IAC 24.25(1). The facts establish the claimant accepted employment knowing it was his responsibility to get to work that was 60 miles from his residence. The claimant's situation is unfortunate but the reasons for failing to continue his employment do not qualify him to receive unemployment insurance benefits. As of May 27, 2007, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's June 13, 2007 decision (reference 02) is affirmed. The claimant quit his employment for personal reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 27, 2007. 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.

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Debra L. Wise
Administrative Law Judge

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Decision Dated and Mailed

dlw/css