

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHEL KILIMA
Claimant

APPEAL NO: 13A-UI-06295-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 04/21/13
Claimant: Respondent (2/R)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed a representative's May 14, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant voluntarily quit for reasons that qualify him to receive benefits. The claimant responded to the hearing notice, but did not answer his phone when he was called for the hearing. An interpreter was available to participate at the hearing. Chris Rossiter 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 qualify him to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in June 2012. He worked full time.

Even though the claimant was not eligible for a vacation, the employer gave the claimant permission to take time off from March 25 to 29, 2013, to visit his brother. When the claimant returned to work on March 29, he informed the employer he was quitting because he was going to go to school. The claimant quit effective immediately.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant is not qualified to receive benefits when he leaves employment to go to school. 871 IAC 24.25(26). Since the employer understood the claimant quit to go to

school, the claimant had compelling reasons to quit but he quit for reasons that do not qualify him to receive benefits. As of April 21, 2013, the claimant is not qualified to receive benefits.

The issue of overpayment or whether the claimant has to pay back any benefits he may have received since April 21, 2013, will be remanded to the Claims Section to determine.

DECISION:

The representative's May 14, 2013 determination (reference 01) is reversed. The claimant voluntarily quit his employment for personal reasons that do not qualify him to receive benefits. As of April 21, 2013, the claimant is disqualified from receiving unemployment insurance benefits. 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.

The issue of overpayment or whether the claimant will be required to pay back any benefits he may have received since April 21, 2013, is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css