

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

MICHAEL J LECKBAND
PO BOX 68
CALUMET IA 51109

TYSON RETAIL DELI MEATS INC
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-08404-DWT
OC: 01/09/05 R: 01
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:

Michael J. Leckband (claimant) appealed a representative's August 3, 2005 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Tyson Retail Deli 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 August 31, 2005. 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?

FINDINGS OF FACT:

The claimant started working for the employer on May 19, 1997. The claimant worked full time. After the employer took over as the owner three years ago, the claimant did not like the policy changes implemented by the employer.

Some of the changes the employer initiated included no smoking inside the facility, changes in the attendance policy, not authorizing any overtime, no longer allowing a camera or video camera inside the facility and the employer's failure to keep parts on hand so repairs could be made timely. The claimant became increasingly frustrated with the employer's policy changes. The claimant decided to wait to make a decision about his continued employment until the contract negotiation had been completed. A majority of the union members approved the contract. The claimant, however, became even more frustrated after the contract had been approved because the union agreed to freeze wages for five years and as of January 1, 2006, employees would have to start paying for their insurance instead of the employer.

The claimant decided he would quit when he could use two weeks of vacation. On June 10, 2005, the claimant gave the employer his two-week's notice. The claimant's effective resignation date was June 24, or the last day of a two-week vacation.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if a claimant voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The claimant voluntarily quit his employment when he submitted his resignation on June 10, 2005. When a claimant resigns, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant voluntarily quits employment when he quits because of a substantial change in the employment relationship. 871 IAC 24.26(1). The claimant acknowledged the policy changes occurred within the last 18 months. The claimant was not happy when the changes occurred but decided to wait until a new contract was negotiated. Even though a majority of the union members accepted the new contract, the claimant became more frustrated after the union members agreed to a five-year wage freeze and agreed to pay for their insurance in 2006 instead of the employer. The claimant established compelling personal reasons for quitting. From the claimant's perspective there was a substantial change in his employment the last three years. However, for unemployment insurance purposes, the claimant did not establish a substantial change in his employment. Therefore, the claimant is not qualified to receive unemployment insurance benefits as of June 26, 2005.

DECISION:

The representative's August 3, 2005 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for compelling personal reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 26, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible.

dlw/pjs