

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAUL R GERLING
Claimant

APPEAL NO: 11A-UI-03558-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**OC: 01/16/11
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's March 9, 2011 determination (reference 04) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Steve Wyler, the warehouse manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons that constitute work-connected misconduct, or 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 January 2009. The claimant worked until September 20, 2010. On September 21, the claimant contacted the employer to report he had problems with his car and could not get to work. The claimant did not call or report to work after September 21, 2010.

The employer allows employees to have five unexcused absences before terminating an employee. If the claimant had contacted the employer again before September 29, the employer may have granted him additional time off from work if he needed to get his car repaired. When the claimant did not call or report to work after September 21, the employer no longer considered him an employee as of September 29, 2010.

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, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The facts establish the claimant voluntarily quit his employment by abandoning his employment after

September 21, 2010. 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 claimant's failure to contact or report to work after September 21, 2010, resulted in his employment separation. The claimant may have had compelling personal reasons for abandoning his employment. The evidence does not, however, establish that he quit for reasons that qualify him to receive benefits. As of January 16, 2011, the claimant is not qualified to receive benefits.

DECISION:

The representative's March 9, 2011 determination (reference 04) is reversed. The employer did not discharge the claimant. Instead, claimant voluntarily quit his employment when he failed to contact or report to work after September 21, 2010. The claimant may have compelling personal reasons for abandoning his employment, but the evidence does not establish that he quit for reasons that qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of January 16, 2011. 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css