

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

THOMAS BRITT
428 S LOCUST AVE
NEW HAMPTON IA 50659

LYNCH LIVESTOCK INC
331 – 3RD ST NW
WAUCOMA IA 52171-9400

Appeal Number: 05A-UI-06292-BT
OC: 05/22/05 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
Section 96 5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Thomas Britt (claimant) appealed an unemployment insurance decision dated June 9, 2005, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from employment with Lynch Livestock, Inc. (employer) for work-connected misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 5, 2005. The claimant participated in the hearing. The employer participated through Angela Sickels, Human Resources Director.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time yard worker and working with Lynch Barbeque from November 8, 1994 through May 19, 2005. On May 19, 2005, the claimant argued with his supervisor because he was angry about having to look at and set up some tents. Eventually the claimant said, "You just got my two fucking week notice." The supervisor told him he could just leave at that time.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

Rule 871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. An employee quits his job when he intends to quit and carries out that intent by some overt act. Peck v. Employment Appeal Bd., 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). The claimant voluntarily quit on March 19, 2005 by stating he was giving his "two fucking week notice." He quit his employment because he was angry with the employer about having to deal with some tents. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied that burden.

However, when an individual is discharged prior to an effective date of resignation, benefits are allowed from the last day worked until the effective date of the resignation, unless the claimant was discharged for work-connected misconduct. 871 IAC 24.25(38). The claimant was discharged at the time of his resignation due to insubordination. His discharge prior to the effective date of his resignation was due to work-connected misconduct as defined by the unemployment insurance law. Benefits are therefore denied.

DECISION:

The unemployment insurance decision dated June 9, 2005, reference 01, is affirmed. The claimant's separation was disqualifying. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

sdb/kjf