

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

DANIEL TANGERI
708 RHOMBERG AVE
DUBUQUE IA 52001

FIRST MIDWEST MORTGAGE CORP
7878 BIG SKY DR #C
MADISON WI 53719

Appeal Number: 04A-UI-01807-DWT
OC 03/23/03 R: 04
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 are 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:

Daniel Tangeri (claimant) appealed a representative's February 12, 2004 decision (reference 04) that concluded he was not qualified to receive unemployment insurance benefits, and the account of First Midwest Mortgage Corporation (employer) would not be charged because the claimant had voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 9, 2004. The claimant participated in the hearing. Thalia Cutsforth and Frank Schultz 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 unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on April 9, 2003. The claimant worked as a full-time loan officer. Cutsforth became the claimant's supervisor the last six weeks of his employment. Since the claimant began working, the revenue he generated was usually lower than the other loan officers. The claimant had a sales background but not a financial background. The claimant did not believe he had received adequate training to do his job and told Cutsforth he did not believe he received the training necessary for the job. Cutsforth set aside an hour a day for training. The claimant took advantage of the training the first three days. After these first three days, Cutsforth understood the claimant wanted to do other work or did not have any questions for her to answer. Cutsforth concluded that when the claimant indicated he did not have any questions, he understood the programs and did not need any more training. The claimant did not ask Cutsforth any questions after the first three training sessions with her.

In mid-January 2004, the claimant had not closed any loans. Although the claimant would receive commission from a carryover loan in December, the employer told him he needed to start producing more work. The claimant had problems finalizing difficult loans that involved consumers with poor credit or for consumers who wanted a specific type of loan. Although the employer would not have discharged the claimant at the end of the month for poor production, the claimant incorrectly assumed he would be discharged. Even though the claimant's production had been lower than most of the other loan officers, the employer only planned to give him a written warning at the end of January if he had not shown any improvement in his production.

On January 19, 2004, the claimant informed the employer he was quitting effective immediately so he could help his parents. His parents are self-employed and they needed the claimant's assistance. The claimant did not indicate he was quitting because he thought he would be discharged at the end of the month.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §96.5-1, 2-a. Even though the claimant concluded he was going to be discharged, the evidence indicates the employer had warned him he needed to improve his production or his employment would be in jeopardy, but the employer did not intend to discharge the claimant as of January 31, 2004. The employer was even surprised the claimant quit on January 19, 2004. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The claimant quit for compelling personal reasons; his parents needed his assistance and he was not happy with his job. Even though the claimant concluded the employer would discharge him as of January 31, 2004, the facts do not establish that this was a correct assumption. The evidence shows the claimant quit his employment for reasons that do not qualify him to receive

unemployment insurance benefits. As of January 18, 2004, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's February 12, 2004 decision (reference 04) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of January 18, 2004. 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.

dlw/b