

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREA A BOL
Claimant

APPEAL NO. 06A-UI-10104-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
c/o TALX UC EXPRESS
Employer

OC: 08-27-06 R: 02
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

Tyson Fresh Meats, Inc. filed a timely appeal from an unemployment insurance decision dated October 2, 2006, reference 07, that allowed benefits to Andrea A. Bol. After due notice was issued, a telephone hearing was held November 13, 2006 with training specialist Tom Barragan participating for the employer. Although Mr. Bol had provided a telephone number at which he could be contacted, his number was answered by a recording at the time of the hearing. The administrative law judge left a message for him to call the Appeals Section immediately if he wished to participate in the hearing. There was no further contact from the claimant.

ISSUES:

Did the claimant quit with good cause attributable to the employer?

Was the claimant discharged for misconduct in connection with his employment?

Has the claimant been overpaid?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Andrea A. Bol was a production worker for Tyson Fresh Meats, Inc. from August 22, 2005 until August 31, 2006. His personnel record indicates that he voluntarily left employment for personal reasons. Continued employment was available had he not resigned. Mr. Bol has received unemployment insurance benefits since filing a claim effective August 27, 2006.

REASONING AND CONCLUSIONS OF LAW:

The first step in analyzing the evidence is to characterize the separation. Although the fact-finding decision indicated that Mr. Bol had been discharged, no evidence of a discharge was presented to the administrative law judge. From the evidence in this record, the

administrative law judge concludes that the separation was a voluntary quit. The remaining question, then, is whether it was a quit with good cause attributable to the employer.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The claimant has the burden of proof. See Iowa Code section 96.6-2. As noted above, the claimant did not participate in the hearing. The only evidence in this record is that he left work for personal reasons while work was still available. The administrative law judge concludes that the evidence does not establish a quit with good cause attributable to the employer. Benefits must be withheld.

Mr. Bol has received unemployment insurance benefits to which he is not entitled. They must be recovered in accordance with the provisions of Iowa Code section 96.3-7.

DECISION:

The unemployment insurance benefits dated October 2, 2006, reference 07, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. He has been overpaid by \$2,810.00.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

da/pjs