

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

BILLY L GROSECLOSE
1609 SUTHERLAND RD
MENA AR 79153

CARGILL MEAT SOLUTIONS
CORPORATION
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166

Appeal Number: 05A-UI-11143-SWT
OC 10/02/05 R 12
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:

The claimant appealed an unemployment insurance decision dated October 21, 2005, reference 01, that concluded the claimant had voluntarily quit employment without good cause. A telephone hearing was held on November 15, 2005. The claimant participated in the hearing with witnesses, Pat Roberts, Shirley Treadwell, and Crael Groseclose. Mindy Hadley participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked for the employer as a production laborer from April 19, 2004 to September 19, 2005. The claimant's wife and family moved to Louisiana. The claimant had

intended to give the employer two weeks' notice that he was leaving to relocate to Louisiana to be with his family.

After September 19, the claimant traveled to Louisiana because the claimant's family had to evacuate the area where they were living because Hurricane Rita was expected to hit that area. The claimant left without reporting that he was going to be absent from work. When he arrived in Louisiana, he discovered that there were no operating phones to call the employer. He and his family gathered their belongings and drove to Arkansas, to stay with the uncle of the claimant's wife. The claimant has decided to stay in Arkansas and not return to his employment. The employer considered the claimant to have voluntarily quit employment after three days of absence without notice to the employer, pursuant to the employer's work rules.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without 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.

871 IAC 24.25(2) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (2) The claimant moved to a different locality.

The claimant's situation is tragic and the circumstances for leaving employment are compelling. A judge's job, however, is to apply the law as written, not rewrite the law to reach a desired result. The claimant's reason for quitting employment does not meet the definition of good cause attributable to the employer found in the unemployment insurance law. The law grants benefits to individuals who leave work for up to ten days for compelling personal reasons, as long as the individual attempts to return to work but discovers that work is no longer available. Iowa Code Section 96.5-1-f. These conditions for receiving benefits have not been met in this case.

DECISION:

The unemployment insurance decision dated October 21, 2005, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

saw/s