

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

LEWIS O BOOKER
213 W AMES
RUSSELL IA 50238

HY-VEE INC
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283

TALX UC EXPRESS
3799 VILLAGE RUN DR #511
DES MOINES IA 50317

Appeal Number: 05A-UI-01600-DWT
OC: 01/02/05 R: 02
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:

Lewis O. Booker (claimant) appealed a representative's February 9, 2005 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Hy-Vee, Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 10, 2005. The claimant participated in the hearing. David Williams, a representative with TALX, appeared on the employer's behalf with Ted Jones, an assistant manager, as a witness. Nathan Stucky observed the hearing. 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 7, 2004. The claimant worked part-time as a night stocker. The claimant's supervisor was Tony. During the course of his employment, Jones told the claimant at least once that he needed to work faster. The claimant's job was not in jeopardy as of August 16, 2004.

The claimant talked to Jones in early August to let him know he was moving to Russell. The claimant wanted to transfer to the employer's store in Chariton. The claimant also indicated he would continue working at his present job and would commute to work because he needed the money.

On August 16, 2004, the claimant received a fax from his father asking him to come home to Virginia because the claimant's mother had fallen and was in the hospital. The claimant showed his supervisor the fax he received from his father. The claimant did not know how long he would be gone. The claimant understood if he was gone more than ten days, he would have to contact the employer when he came back to Iowa because the employer would have taken him off the schedule by this time.

The claimant did not leave for Virginia until August 20 or 25. Before the claimant could leave Iowa he needed to get permission from the work release center. The claimant went to Virginia and did not return to Iowa until early September. While the claimant was in Virginia he called the employer and indicated he would be gone longer than ten days. The claimant again understood that when he returned to Iowa he needed to contact the employer to see if he could be put back on the schedule.

Before the claimant received the August 16 fax, the employer had him scheduled to work August 18, 19, 20, 21, and 22. Jones did not know that the claimant had to go to Virginia to see his mother and assumed the claimant did not report to work or call the employer these days. The employer concluded the claimant had quit because he had moved to Russell. The employer replaced the claimant after August 22, 2004. When the claimant returned to Iowa, he learned he was no longer on the schedule and the employer had hired another person for his position.

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 undisputed facts reveal the claimant voluntarily left the state of Iowa and work to see his mother in Virginia. The claimant went to Virginia for compelling personal reasons.

The claimant understood that if he was gone more than ten days the employer would take him off the schedule. The claimant did not know when he returned to Iowa, but thought he was in Virginia for two to three weeks and did not leave Iowa until August 20 or 25. The claimant was

away from work more than ten workdays. Since the claimant left for compelling personal reasons and was gone for more than ten days, he is not qualified to receive unemployment insurance benefits. Under this factual situation, 871 IAC 24.25(20) applies and holds that a claimant has voluntarily quit employment for reasons that do not qualify him to receive unemployment insurance benefits. Therefore, as of January 2, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's February 9, 2005 decision (reference 01) 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 2, 2005. 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/pjs