

**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**

**JOSHUA T LEE  
16412 – 115<sup>TH</sup> ST  
VAN WERT IA 50262**

**MCDONALDS  
1220 JEFFREYS DR  
OSCEOLA IA 50213**

**Appeal Number: 04A-UI-00169-CT  
OC: 11/30/03 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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Joshua Lee filed an appeal from a representative's decision dated December 30, 2003, reference 02, which denied benefits based on his separation from McDonalds. After due notice was issued, a hearing was held by telephone on January 27, 2004. Mr. Lee participated personally. The employer participated by Jeremiah Jackson, General Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Lee was employed by McDonalds beginning August 17 and last worked on November 28, 2003. He was employed as a full-time grill opener. On

November 29, a telephone message was left for him by the general manager telling him not to report to work until he had spoken with the general manager. The message did not indicate or imply that he no longer had a job. He did not return the telephone call. Mr. Lee's sister also worked at the McDonalds and told her brother that he might be fired.

The general manager had not told Mr. Lee's sister that he was fired. The employer did not intend to discharge him at that point, only suspend him for poor work performance. He had previously been warned about his performance. Continued work would have been available had Mr. Lee continued reporting for available work.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Lee was separated from employment for any disqualifying reason. The administrative law judge concludes that he quit when he discontinued reporting for available work. He had not been advised that he was discharged and the employer did not intend to discharge him at the point at which he stopped reporting for work. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1). Mr. Lee had the burden of proving that his quit was for good cause attributable to the employer. Iowa Code Section 96.6(2).

It appears that Mr. Lee stopped reporting for work because he perceived that he was going to be discharged. Unless the employer gives an individual some indication that he is going to be discharged, his assumptions regarding the employer's intentions are irrelevant. Having taken the position that he was discharged, Mr. Lee did not offer any reason as to why he would quit the employment. For the reasons cited herein, it is concluded that Mr. Lee has failed to establish that he had good cause attributable to the employer for quitting. Accordingly, benefits are denied.

#### DECISION:

The representative's decision dated December 30, 2003, reference 02, is hereby affirmed. Mr. Lee voluntarily quit his employment with McDonalds for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/s