

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUANE A GOSA
Claimant

APPEAL NO. 08A-UI-11233-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**OC: 10/05/08 R: 12
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Duane Gosa, filed an appeal from a decision dated November 24, 2008, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on December 15, 2008. The claimant participated on his own behalf. The employer, Tyson, did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Duane Gosa was employed by Tyson from January 2, 2008 until September 26, 2008 as a full-time production worker. Mr. Gosa had requested four or five days off beginning September 26, 2008, because he had to go to court in Indiana. It would require at least one day to travel there each way and the other days were to attend to the court appearance.

He submitted a written request to Lead Supervisor Julian Fernandez and on September 26, 2008, he was notified he could not have that many days off. Mr. Fernandez said there were a lot of vacation requests and he could have one or two days off, but not five. Mr. Gosa asked if his job would still be available to him if he had to spend time in jail and was told it would not. The claimant was concerned that if he did not appear in court as ordered the authorities would come to Iowa and arrest him at his home or place of work. After consulting with Mr. Fernandez he elected to quit so that he could reapply for work in six months.

REASONING AND CONCLUSIONS OF LAW:

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 quit first of all to attend to personal legal matters in another state. He also quit rather than remain employed and not appear for his court date because he feared being arrested at work. These may constitute good personal cause but not good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of November 24, 2008, reference 01, is affirmed. Duane Gosa is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs