

**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**

**JASMIN B ALAGIC
1242 – 55TH ST
DES MOINES IA 50311**

**TITAN TIRE CORPORATION
2345 E MARKET ST
DES MOINES IA 50317**

**Appeal Number: 04A-UI-01726-AT
OC: 01/18/04 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:

Jasmin B. Alagic filed a timely appeal from an unemployment insurance decision dated February 13, 2004, reference 01, which disqualified him for benefits. After due notice was issued, a telephone hearing was held March 2, 2004 with Mr. Alagic participating. Area Manager John LeGrand and Human Resources Manager Joyce Kain participated for the employer, Titan Tire Corporation.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Jasmin B. Alagic was employed by Titan Tire Corporation from November 22, 1998 until he resigned January 19, 2004. He last worked as a production foreman. Mr. Alagic resigned because he did not wish to be transferred to the night shift. He had worked the night shift at various times during his employment. He did not wish to return to working nights because of family concerns. He felt that he had enough seniority as a manager that he should have been transferred to another day shift.

Area Manager John LeGrand was in the process of making several changes. He wanted Mr. Alagic on that particular shift for training purposes. Mr. LeGrand takes seniority into account when possible, but he bases his assignment of supervisors on company needs.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Alagic quit with good cause attributable to the employer. It does not.

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.

One who resigns because of dislike of a shift leaves work without good cause attributable to the employer. See 871 IAC 24.25(18). The evidence in this record establishes that Mr. Alagic resigned primarily because he did not want to work nights. He testified that he also resigned because he felt it unfair that he be transferred to the night shift rather than other managers who had less seniority than he. The evidence does not establish, however, that seniority played an overriding part in the decision to return Mr. Alagic to the night shift. It is clear from the evidence that Mr. Alagic was a member of management and not of the collective bargaining unit. Mr. Alagic did not contradict Mr. LeGrand's testimony that his personnel decisions were based primarily on company needs, not seniority.

An individual who resigns because of a substantial change in the condition of the employment may receive unemployment insurance benefits under some circumstances. See 871 IAC 24.26(1). Changes in working hour and shifts are among the considerations in determining whether a substantial change has occurred. The administrative law judge concludes that the change to the night shift did not represent a substantial change in Mr. Alagic's case because he had worked nights before and because there is no evidence that he had a reasonable expectation of remaining on days indefinitely. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated February 13, 2004, reference 01, is affirmed. 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.

kjf/b