

**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**

**LASHUN C ROBERTSON  
404 BARNETT DR LOT 57  
KINGSPORT TN 37664-5488**

**SAUER-DANFOSS UNITED STATES  
COMPANY  
c/o TALX UCM SERVICES INC  
PO BOX 283  
SAINT LOUIS MO 63166**

**Appeal Number: 06A-UI-02781-S2T  
OC: 02/05/06 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, 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 Section  
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Lashun Robertson (claimant) appealed a representative's February 21, 2006 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Sauer-Danfoss (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 28, 2006. The claimant participated personally. The employer participated by Jon Finnegan, Senior Human Resources Generalist.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on December 20, 2004, as a part-time production operation technician. His car was in disrepair and he did not have enough money to fix it. The claimant notified the employer on November 3 and 4, 2005, he could not work. The employer agreed to the claimant's absence for those days but informed the claimant he was expected at work on Monday, November 7, 2005.

The claimant did not appear for work or notify the employer of his absence on November 7, 8, 9, 10 and 11, 2005. The employer sent the claimant a letter dated November 11, 2005, notifying the claimant he was considered to have quit unless the claimant contacted the employer by November 18, 2005. On November 13, 2005, the claimant e-mailed the employer saying that he was quitting due to loss of transportation. Continued work was available had the claimant not resigned.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes he did.

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(1) 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:

- (1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He stopped appearing for work and later told the employer that he was quitting work. When an employee quits work because of lack of transportation, his leaving is without good cause attributable to the employer. The claimant left work because he did not have transportation to work. His leaving was without good cause

attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The next issue is whether the claimant was able and available for work. For the following reasons the administrative law judge concludes he is not.

871 IAC 24.23(4) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. (See subrule 24.24(7).

The claimant's means of transportation was lost because his car was in disrepair. When a claimant has no means of transportation to employment, the claimant is deemed to not be available for work. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work with another employer.

**DECISION:**

The representative's February 21, 2006 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. In addition, the claimant is not available for work due to loss of transportation. Benefits are withheld.

bas/s