

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

ANH N HO
13942 IOWA ST APT 11
WESTMINSTER CA 92683

TYSON FRESH MEATS INC
c/o FRICK UC EXPRESS
PO BOX 283
ST LOUIS MO 63166

Appeal Number: 05A-UI-00157-JTT
OC: 12/05/04 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, 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:

Anh Ho filed a timely appeal from the December 29, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 26, 2005. The claimant did participate. The employer did participate through Randy Schultz, Assistant Human Resources Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Ho was employed as a full-time production line worker through November 20, 2004 when he voluntarily quit to move to another locality. Mr. Ho's wife and child live in Westminster, California. Mr. Ho and his wife were concerned about leaving their daughter alone at nights while Mrs. Ho worked at night. In addition, Mr. Ho was unable to support two households, one

for himself in Iowa and one for his family in California. But for these circumstances, Mr. Ho would have continued to work for Tyson Foods.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Ho voluntarily quit his employment with good cause attributable to his 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.

871 IAC 24.25(2) 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:

(2) The claimant moved to a different locality.

Mr. Ho has the burden of proving that his voluntary quit was for good cause attributable to the employer. Iowa Code Section 96.6(2). The evidence in the record establishes that that while Mr. Ho may have had compelling personal reasons for quitting and moving to California, his quit was not for good cause attributable to the employer. Accordingly, benefits are denied.

DECISION:

The Agency representative's decision dated December 29, 2004, reference 01, is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as Mr. Ho has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

jt/b