

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES KEMEH
Claimant

APPEAL NO: 13O-UI-00835-B

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC
Employer

OC: 09/02/12
Claimant: Respondent (2/R)

Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.5(2)(a) - Discharge for Misconduct
Iowa Code § 96.3-7 - Overpayment

STATEMENT OF THE CASE:

Farmland Foods, Inc. (employer) appealed an unemployment insurance decision dated September 25, 2012, reference 01, which held that James Kemeh (claimant) was eligible for unemployment insurance benefits. Administrative Law Judge Susan Ackerman conducted an initial hearing on this matter in appeal 12A-UI-11915-BT in which benefits were denied. The claimant appealed the decision to the Employment Appeal Board. The majority of the Board members were unable to understand the claimant's testimony due to his heavy accent. The case was remanded for another hearing in an order dated January 23, 2013. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Carroll, Iowa on February 19, 2013. The claimant participated in the hearing with his wife Mulasi Masta. Kathryn Shaka was available by telephone to interpret but the claimant has no difficulty with the English language and she was not needed. The employer participated through Becky Jacobsen, Human Resources Manager and Justin Struck, Supervisor. Employer's Exhibits One and Two and Claimant's Exhibits A and B were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The findings of fact set forth in the decision in appeal 12A-UI-11915-BT are adopted and incorporated herein as if set forth at length.

REASONING AND CONCLUSIONS OF LAW:

The reasoning and conclusions of law of the administrative law judge in appeal 12A-UI-11915-BT are adopted and incorporated herein as if set forth at length.

DECISION:

The unemployment insurance decision dated September 25, 2012, reference 01, is reversed. The claimant's separation is disqualifying. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/tll