

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

PATRICK J THOBE
2157 – 400TH ST
HARCOURT IA 50544

AMVC EMPLOYEE SERVICES LLC
508 MARKET ST
AUDUBON IA 50025

Appeal Number: 04A-UI-00468-SWT
OC 12/07/03 R 01
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:

The claimant appealed an unemployment insurance decision dated January 8, 2004, reference 02, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on February 4, 2003. The parties were properly notified about the hearing. The claimant participated in the hearing. Noel Tyson participated in the hearing on behalf of the employer with witnesses, Kevin Polson and Tim Armentrout.

FINDINGS OF FACT:

The claimant worked full time for the employer as a swine facility coordinator from October 1999 to July 9, 2003. From July 9 to September 4, 2003, the claimant was off work on Family and Medical Leave (FMLA) due to a mental disorder. He was released to return to work on September 5, 2003. He worked until September 19, 2003, but then voluntarily quit employment because of the new job assignment he had been given. He was assigned to get a run-down

swine facility up and running but the facility was understaffed and few of the employees who were there spoke English. He did not believe he could tolerate the work involved, considering his fragile mental state. He informed the employer that he could not do the job and was quitting. He did not explore options with management that would have allowed him to continue to work. The employer did not want to lose the claimant as an employee and would not have required the claimant to work at the new facility if he had insisted that he be moved to a different job. The job assignment did not involve any substantial change in job duties from what the claimant had been assigned in the past.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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.

Iowa Code Section 96.6-2 provides in pertinent part:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The evidence fails to establish any breach of any employment agreement the claimant had with the employer or prove intolerable working conditions. The employer would not have required that the claimant work full time at the new facility and would have accommodated his request to be moved to another job if he had not quit.

DECISION:

The unemployment insurance decision dated January 8, 2004, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

saw/b