

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

DENG M TONG
1409 SENECA ST #41
STORM LAKE IA 50588-1957

TYSON FRESH MEATS INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-04365-CT
OC: 04/02/06 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:

Deng Tong filed an appeal from a representative's decision dated April 21, 2006, reference 01, which denied benefits based on his separation from Tyson Fresh Meats, Inc. (Tyson). After due notice was issued, a hearing was held by telephone on May 10, 2006. Mr. Tong participated personally. The employer participated by Will Sager, Complex Human Resources Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Tong began working for Tyson on May 3, 2005 and last worked on March 17, 2006. He was a full-time production worker. On March 18, he

was arrested for traffic violations and confined to jail. He left a message on the employer's answering machine on March 20 advising of his circumstances.

Mr. Tong was released from jail on April 2 and spoke to the employer on April 3 about returning to work. He was notified that he had already been separated from the employment as a result of his absences. The above matter was the sole reason for the separation.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Tong was separated from employment for any disqualifying reason. He was unable to report for work after March 17 because he was in jail. Where an individual leaves employment because of incarceration, he is presumed to have quit for no good cause attributable to the employer. 871 IAC 24.25(16). The fact that he was in jail was the only reason for Mr. Tong's separation from Tyson. For the reasons stated above, he is disqualified from receiving job insurance benefits pursuant to Iowa Code section 96.5(1).

DECISION:

The representative's decision dated April 21, 2006, reference 01, is hereby affirmed. Mr. Tong left his employment with Tyson for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/kkf