

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSH J DIEDTRICHS**  
Claimant

**APPEAL NO. 07A-UI-03064-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEEF PRODUCTS INC**  
Employer

**OC: 02/25/07 R: 03  
Claimant: Appellant (1)**

Section 96.5(1)a – Quit/Other Employment

**STATEMENT OF THE CASE:**

The claimant, Josh Diedtrichs, filed an appeal from a decision dated March 23, 2007, reference 04. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 11, 2007. The claimant participated on his own behalf and with a witness Terrill Karr. The employer, Beef Products, Inc. (BPI), participated by Human Resources Manager Rick Wood, Human Resources Coordinator Charlene Shoeman and Human Resources Supervisor Jennifer Stubbs.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Josh Diedtrichs was employed by BPI from November 9, 2006 until February 3, 2007, as a full-time laborer on the night shift. He had applied for another job at Allen Hospital on December 28, 2006, and the application notified all potential employees that no firm job offer would be made until the applicant passed a criminal background check and a physical.

Allen Hospital did the background check on January 3, 2007, and the claimant passed that requirement. He was tentatively offered a job on January 31, 2007, pending his passing the physical. Mr. Diedtrichs notified BPI he was quitting effective immediately on February 3, 2007, but did not take the physical until February 5, 2007. He did not pass the physical and there was no final job offer made to him.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.25(3) 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:

(3) The claimant left to seek other employment but did not secure employment.

The claimant quit because he believed he would pass the physical and be hired by Allen Hospital. However, he did not pass the physical and no final job offer was made to him. Under the provisions of the above Administrative Code section, the claimant is disqualified because he did not have a firm job offer at the time he resigned from BPI.

**DECISION:**

The representative's decision of March 23, 2007, reference 04, is affirmed. Josh Diedtrichs is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css