

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

DEREK G CIBULA  
2769 – 29<sup>TH</sup> AVE  
MARION IA 52302

HY-VEE INC  
c/o TALX UCM SERVICES INC  
PO BOX 283  
ST LOUIS MO 3166 0283

TALX UC EXPRESS  
3799 VILLAGE RUN DR #511  
DES MOINES IA 50317

Appeal Number: 05A-UI-01137-DWT  
OC: 12/19/04 R: 03  
Claimant: Respondent (4)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1-a – Voluntary Quit for Other Employment

STATEMENT OF THE CASE:

Hy-Vee, Inc. (employer) appealed a representative's January 26, 2005 decision (reference 02) that concluded Derek G. Cibula (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 28, 2005. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. David Williams, a representative with TALX, appeared on the employer's behalf with Jim Wilson, the department manager, and Val Akiens, the human resource manager, as witnesses for the employer. Nathan Stucky observed the hearing. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in September 2003. The claimant worked part-time about 20 hours a week in the meat department.

On October 6, 2004, the claimant told Wilson, the department manager, he was working full time at another job and did not know when the employer could schedule him to work. The employer considered the claimant a good employee and asked the claimant to let Wilson know when he could work after the claimant knew what his schedule would be at his other job. Even though the claimant did not contact the employer again, the employer still considers the claimant a part-time employee.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. If a claimant quits a job because he has accepted another job, the claimant is not disqualified from receiving unemployment insurance benefits, and the employer's account will not be charged. Iowa Code § 96.5-1-a.

The evidence indicates the claimant quit working for the employer because he was working for another employer full time. Under these facts, the claimant is not disqualified from receiving benefits and the employer's account will not be charged.

DECISION:

The representative's January 26, 2005 decision (reference 02) is modified in the employer's favor. The claimant voluntarily quit his employment because he accepted a full-time job with another employer. Based on the reason for his separation, the claimant is qualified to receive unemployment insurance benefits as of December 19, 2004, provided he meets all other eligibility requirements. The employer's account will not be charged.

dlw/sc