

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS W KALKBRENNER-BELLENDIER
Claimant

APPEAL NO. 15A-UI-01960-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 01/11/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Thomas Kalkbrenner-Bellendier (claimant) appealed a representative's February 2, 2015 (reference 01) decision that concluded he was not eligible to receive unemployment insurance benefits after his separation from employment with Tyson Fresh Meats (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 13, 2015. The claimant participated personally. The employer participated by Kristi Fox, Human Resources Clerk. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked from July 21, 2008 through October 28, 2014 as a full-time production worker. The claimant requested and was granted a medical leave of absence (LOA) from October 29 through November 30, 2014. The claimant was supposed to return to work on December 1, 2014; unless he requested an extension of his LOA. The claimant saw his physician on November 28, 2014. His doctor indicated he should remain off work for his non-work-related back injury. The claimant did not request that the doctor fax the doctor's note to the employer. The claimant did not notify the employer of the existence of the note or contact the employer. The employer sent the claimant a letter indicating his LOA would be ending and he needed to contact the employer's human resources department about his intentions. The claimant did not receive the letter but the claimant knew he was supposed to return to work on December 1, 2014. On December 1, 2, and 3, 2014, the claimant did not appear for work or contact the employer. The employer terminated the claimant for failure to return to work after expiration of his LOA.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes he did.

Iowa Code § 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 Admin. Code r. 871-24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by his actions. When an employee stops work after a leave of absence, his leaving is without good cause attributable to the employer. The claimant left work to take a leave of absence and then did not contact the employer when the leave of absence expired. He did not provide the employer with a doctor's note, request an extension of the leave of absence, or call in sick. The claimant's failure to maintain contact with the employer after the expiration of his leave constitutes a voluntary quit. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's February 2, 2015 (reference 01) decision is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/can