

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

WESLEY M SEEDORFF
545 E GATE DR
WATERLOO IA 50703

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

Appeal Number: 04A-UI-00396-RT
OC: 06-15-03 R: 03
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 Quitting
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant, Wesley M. Seedorff, filed a timely appeal from an unemployment insurance decision dated January 5, 2004, reference 03, denying unemployment insurance benefits to him. After due notice was issued for a telephone hearing on February 4, 2004, at 2:00 p.m., the claimant did not call in a telephone number, either before the hearing or 15 minutes after the hearing, where he or any of his witnesses could be reached for the hearing, as instructed in the notice of appeal. Although the employer had called in a telephone number where a witness, David Duncan, purportedly could be reached for the hearing, when the administrative law judge called that number at 2:00 p.m. he reached the voice mail for Mr. Duncan. The administrative

law judge left a message that he was going to wait 15 minutes since the claimant had not provided a telephone number and then would decide the case based upon the administrative file if Mr. Duncan or someone else from the employer had not called within that time. The administrative law judge did inform Mr. Duncan that should Mr. Seedorff call he would begin the hearing. Neither party called and consequently, no hearing was held. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having examined the record, the administrative law judge finds: An authorized representative of Iowa Workforce Development issued a decision in this matter on January 5, 2004, reference 03, determining that the claimant was not eligible to receive unemployment insurance benefits and the employer's account would not be charged because records indicate the claimant voluntarily quit work on October 28, 2003 by refusing to continue working and his quitting was not caused by his employer.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether claimant's separation from employment was a disqualifying event. It was.

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.

The administrative law judge concludes that the claimant voluntarily left his employment. Neither party participated in the hearing. The employer, in its protest, indicates that the claimant quit voluntarily on October 28, 2003, and in a letter accompanying the protest, indicates that the claimant is considered to have abandoned his job after failing to return to work. Neither party participated in fact finding. The claimant's appeal is silent about the separation, in fact, it states no specific grounds for the appeal. Accordingly, although neither party participated in the hearing, the administrative law judge concludes that the claimant left his employment voluntarily. The issue then becomes whether the claimant left his employment without good cause attributable to the employer.

The administrative law judge concludes that the claimant has the burden to prove that he has left his employment with the employer herein with good cause attributable to the employer. See Iowa Code Section 96.6-2. The administrative law judge concludes that the claimant has failed to meet his burden of proof to demonstrate by a preponderance of the evidence that he left his employment with the employer herein with good cause attributable to the employer. The claimant did not participate in the hearing and provide reasons attributable to the employer for his quit. There is no evidence that the claimant's working conditions were unsafe, unlawful, intolerable or detrimental, or that he was subjected to a substantial change in his contract of hire. There is also no evidence that the claimant ever expressed any concerns to the employer about his working conditions or that the claimant ever indicated or announced an intention to quit if any of his concerns were not addressed by the employer. Accordingly, the administrative law judge concludes that the claimant left his employment voluntarily without good cause

attributable to the employer and, as a consequence, he is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until and unless he requalifies for such benefits.

DECISION:

The representative's decision of January 5, 2004, reference 03, is affirmed. The claimant, Wesley M. Seedorff, is not entitled to receive unemployment insurance benefits until or unless he requalifies for such benefits.

b/kjf