

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS M RUBERT
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL NO: 10A-UI-06478-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/21/10
Claimant: Appellant (5)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(4) – Absent Without Notice

STATEMENT OF THE CASE:

The claimant appealed a department decision dated April 26, 2010, reference 01, that held he was discharged for misconduct on March 13, 2010, and benefits are denied. A telephone hearing was held on June 21, 2010. The claimant participated. Jim Hook, HR Manager, participated for the employer.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time maintenance employee from November 23, 2004 to March 9, 2010. The claimant walked off the job without notice to any supervisor, and failing to clock-out on March 9 due to some marital problems. The claimant knew it was a violation of employer policy to leave work without permission.

The claimant called the following day and left a recorded message that he would explain himself. The claimant contacted the employer on March 12, but he did not return to work until March 15. Claimant advised HR Manager Hook he had made a bad decision by walking off the job, and he was advised that his action was considered a voluntary quit of employment.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer due to job abandonment on March 9, 2010.

The claimant walked off the job without notice or permission to the employer; that is considered job abandonment, as he made no attempt to return to work until March 15.

DECISION:

The department decision dated April 26, 2010, reference 01, is modified. The claimant voluntarily quit without good cause due to job abandonment on March 9, 2010. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs