

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL E PROPP
Claimant

APPEAL NO. 07A-UI-03654-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**OC: 03/18/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Michael E. Propp (claimant) appealed a representative's April 6, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Tyson Fresh Meats, Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 24, 2007. The claimant participated in the hearing. Jerome Rinken, the production manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that 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 on October 12, 2004. The claimant worked as a full time hourly employee. The claimant understood the employer's attendance policy where the employer would discharge an employee if the employee accumulated 14 attendance points in a year.

The claimant did not have a driver's license and relied on another co-worker to get to work. The claimant's last actual day of work was February 23, 2007. On February 26, the claimant had received advance approval for an excused absence. The claimant's co-worker did not stop to pick up the claimant February 27 through March 6. The claimant did not have a phone. It was too cold for the claimant to walk to work or walk to a phone to notify the employer about his inability to get to work.

The claimant had 11.5 or 12.5 attendance points accumulated as of February 23. The claimant knew that if he called, the employer would assess him more attendance points and discharge

him for having excessive absenteeism. The claimant did not report to work or contact the employer anytime from February 27 through March 6. The employer reasonably concluded the claimant had abandoned his job. As of March 7, 2007, the employer no longer considered the claimant an 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, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The claimant's failure to report to work or contact the employer any time after February 23 indicates the claimant quit by abandoning his employment. The law presumes that quitting because of a lack of transportation does not constitute good cause for leaving employment. 871 IAC 24.25(1).

The evidence establishes the claimant quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. As of March 18, 2007, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's April 6, 2007 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of March 18, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css