

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

ZUMRETA SABIC  
812 MARSH ST  
WATERLOO IA 50701

TYSON FRESH MEATS INC  
C/O TALX – UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-04307-SWT  
OC: 11/28/04 R: 03  
Claimant: Respondent (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, 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.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated April 15, 2005, reference 02, that concluded she was qualified to receive benefits because she had offered to return to work but no work was available. A telephone hearing was held on June 7, 2005. The parties were properly notified about the hearing. The claimant participated in the hearing. Brooke Salger participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked for the employer as a forklift operator from October 18, 1999 to November 8, 2004. At that point, the claimant was off work due to medical problems with notice to the employer. She was on leave under the Family and Medical Leave Act.

On February 14, 2005, her doctor released the claimant to return to work with a ten-pound weight restriction for two weeks. She reported to work with the doctor's note and said she wanted to return to work. The claimant's job as a forklift operator did not require lifting of over ten pounds. The nurse told the claimant to go home and return only if she had a full release without restrictions.

The claimant returned to work on March 14, 2005, after submitting a full release to the employer. She worked until March 23, 2005, when she quit work. The claimant discontinued filing for unemployment insurance benefits after March 12, 2005.

#### REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

The unemployment insurance law provides that individual is qualified to receive benefits if she: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that she needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but her regular work or comparable suitable work was not available. Iowa Code section 96.5-1-d.

The evidence establishes that as of February 14, 2005, the claimant had recovered so that she was able to perform her former job, but she was not allowed to work until she had been released without any restrictions. The claimant satisfied the requirements of Iowa Code section 96.5-1-d at that point and was eligible for benefits during the period from February 13 through March 12, 2005.

The claimant's separation from employment on March 23, 2005, will be reviewed if the claimant files for unemployment insurance benefits in the future.

#### DECISION:

The unemployment insurance decision dated April 15, 2005, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits from February 13 through March 12, 2005, if she is otherwise eligible.

saw/sc