

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CAYLA FERGUSON**  
Claimant

**APPEAL NO. 08A-UI-08274-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 07/06/08 R: 01  
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Cayla Ferguson (claimant) appealed an unemployment insurance decision dated September 8, 2008, reference 02, which held that Cayla Ferguson (claimant) was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Tyson Fresh Meats, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 1, 2008. The claimant participated in the hearing. The employer participated through Ed Thiele, Human Resources Manager. 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:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a full-time general laborer on November 20, 2007 and worked through June 2, 2008 when she was suspended. The employer's attendance policy provides that employees are terminated when they reach 14 attendance points. The claimant had 18.5 attendance points because of recent absences. However, she claimed that she had medical problems. The employer suspended her on June 2, 2008 so that she could have her physician complete Family Medical Leave Act (FMLA) paperwork. The employer gave the claimant a week to provide this information but had not received anything after two weeks. She was considered to have voluntarily quit her employment on June 16, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment

insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by failing to return the required FMLA paperwork within a two-week period as required. She admitted she did not promptly return the paperwork even though her job was in jeopardy.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

**DECISION:**

The unemployment insurance decision dated September 8, 2008, reference 02, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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