

**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**

**STEPHANIE M WYANT  
1931 BELLE AVE  
CEDAR FALLS IA 50613**

**TYSON PREPARED FOODS INC  
c/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283**

**Appeal Number: 06A-UI-00392-CT  
OC: 12/11/05 R: 03  
Claimant: Respondent (2)**

**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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit  
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Tyson Prepared Foods, Inc. (Tyson) filed an appeal from a representative's decision dated January 4, 2006, reference 01, which held that no disqualification would be imposed regarding Stephanie Wyant's separation from employment. After due notice was issued, a hearing was held by telephone on January 30, 2006. Ms. Wyant participated personally. The employer participated by Ron Wood, Human Resources Manager.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Wyant was employed by Tyson from September 2, 2004 until December 1, 2005 as a full-time sanitation worker. On November 25, she had a cold sore on her lip. The superintendent asked her if it was contagious and she indicated it was not. The superintendent advised her that quality assurance might remove her from the area because of the cold sore. Ms. Wyant was offended by the comment and, therefore, left approximately one hour later. She did not report for work or contact the employer on the next scheduled workday, November 28. She notified the human resources manager on November 29 that she was quitting.

Ms. Wyant advised the human resources manager of the question asked by the superintendent and also stated that she was quitting because of the "drama" at the workplace. She was invited to come in and talk about the problems but declined. Ms. Wyant had not advised the employer of any work-related problems prior to quitting. Continued work would have been available if she had not quit.

Ms. Wyant has received a total of \$1,596.00 in job insurance benefits since filing her claim effective December 11, 2005.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Wyant was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Wyant's decision to quit was based on the question asked of her by the superintendent regarding her cold sore. Since the employer operates a food processing plant, it was not unreasonable for the superintendent to question whether an open sore represented a health and safety issue. It does not appear that the question was asked in such a manner as to demean or embarrass Ms. Wyant. Given the nature of the employer's business, Ms. Wyant's response to the question was unreasonable. The question did not provide good cause attributable to the employee for quitting.

Ms. Wyant alleged that she was sexually harassed at work. However, she never brought the matter to the attention of management so that appropriate action could be taken. It appears that she made a conscious decision not to pursue a complaint regarding her treatment at work. Moreover, even though she had not raised the issue previously, the human resources manager offered her an opportunity to come in and discuss the problem that was causing her to quit but Ms. Wyant declined. Therefore, she deprived the employer of an opportunity to obtain details of her complaints and an opportunity to try to correct the problems and keep her employed.

After considering all of the evidence, the administrative law judge concludes that Ms. Wyant's quit was not for good cause attributable to the employer. Accordingly, benefits are denied. Ms. Wyant has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated January 4, 2006, reference 01, is hereby reversed. Ms. Wyant voluntarily quit her employment for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Wyant has been overpaid \$1,596.00 in job insurance benefits.

cfc/pjs