

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLTON YOUNGBLOOD
Claimant

APPEAL NO. 08A-UI-10556-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**OC: 10/12/08 R: 01
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Carlton Youngblood filed an appeal from a representative's decision dated November 7, 2008, reference 01, which denied benefits based on his separation from Tyson Fresh Meats, Inc. (Tyson). After due notice was issued, a hearing was held by telephone on November 25, 2008. Mr. Youngblood participated personally and Exhibit A was admitted on his behalf. The employer responded to the notice of hearing but the designated witness was not available at the number provided at the scheduled time of the hearing.

ISSUE:

At issue in this matter is whether Mr. Youngblood was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Youngblood began working for Tyson on December 5, 2007 as a full-time production worker. His last day at work was October 4, 2008. He was arrested on October 5 and charged with public intoxication and interference with official acts. He was released from jail on bond on October 10.

Mr. Youngblood did not contact the employer while he was in jail and did not have anyone contact the employer on his behalf. He went to the workplace on October 11 and was advised that he no longer had employment with Tyson. He had accumulated more attendance points than allowed and, therefore, the employment was ended. Mr. Youngblood had 11.5 attendance points before his arrest and an individual is subject to discharge when he accumulates 14 points.

REASONING AND CONCLUSIONS OF LAW:

Mr. Youngblood became separated from Tyson as a result of his arrest on October 5. He was prevented from going to work until after his release from jail on October 10. An individual who leaves employment due to incarceration is presumed to have quit employment without good

cause attributable to the employer. 871 IAC 24.25(16). 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). Inasmuch as Mr. Youngblood's separation was prompted by his incarceration, he is not entitled to job insurance benefits.

Even if the administrative law judge were to conclude that Mr. Youngblood had been discharged by Tyson, he still would not be entitled to benefits. An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences. Absences due to matters of personal responsibility, such as incarceration, are not excused. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Mr. Youngblood missed an entire week of work because he was in jail. This would constitute excessive unexcused absenteeism, which is a substantial disregard of the standards an employer has the right to expect. As such, Mr. Youngblood would not be entitled to job insurance benefits based on a discharge.

DECISION:

The representative's decision dated November 7, 2008, reference 01, is hereby affirmed. Mr. Youngblood left his employment with Tyson without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw