

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MERY M MATHYANG

Claimant

APPEAL NO. 09A-UI-02894-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

OC: 06/08/08

Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Mery Mathyang appealed an unemployment insurance decision dated February 20, 2009, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on April 16, 2009. The parties were properly notified about the hearing. Mathyang participated in the hearing with the assistance of interpreter, Francis Chan. Eloisa Baumgartner participated in the hearing on behalf of the employer.

ISSUE:

Did Mery Mathyang voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

Mery Mathyang worked full time for the employer as a production worker from July 21, 2008, to January 14, 2009.

The trainer assigned to Mathyang repeatedly directed profanity toward her. When she complained to a supervisor, the supervisor said he would take care of the problem, but the trainer continued to insult her. The trainer told her that no one would believe her and he would get her fired. The final straw was when the trainer sent a female employee to challenge Mathyang to a fight in the parking lot. Later, the women assaulted Mathyang after work while she was waiting for the bus.

Mathyang quit her employment because she feared for her safety if she returned to work.

The employer's account is not presently chargeable for benefits paid to Mathyang since it is not a base period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether Mathyang voluntarily quit employment without good cause attributable to the employer.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Mathyang voluntarily quit employment due to unsafe working conditions. They are attributable to the employer because the employer did not take effective action to stop the trainer from harassing her.

The employer's account is not presently chargeable for benefits paid to Mathyang since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to Mathyang based on this separation from employment.

DECISION:

The unemployment insurance decision dated February 20, 2009, reference 01, is reversed. Mery Mathyang is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css