

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARTIN IBARRA**  
Claimant

**APPEAL NO. 07A-UI-11349-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 11/11/07 R: 12  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Martin Ibarra (claimant) appealed a representative's December 3, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Tyson Fresh Meats, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 27, 2007. The claimant participated in the hearing. Nicole Koeppen appeared on the employer's behalf. Ike Rocha served as interpreter. 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:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started working for the employer on August 8, 2006. He worked full time as a production worker on the second shift in the employer's Storm Lake, Iowa, pork slaughter and processing facility. His last day of work was August 16, 2007. On that date he voluntarily quit his employment. His stated reason for quitting as that it was too cold inside the plant.

Pursuant to food safety regulations, the employer must maintain plant temperature below 50 degrees (F); the usual temperature control setting is 45 or 46 degrees. The claimant had been experiencing some pain in his shoulder blades which he attributed to the cold; however, he did not receive any medical diagnosis to that effect, nor was he advised by a medical professional that he needed to not work in such a cold environment. The claimant felt that the conditions had at least seemed worse for the last two months of his employment due to the installation of some fans that blew the cold air more in his work area; however, he did not attempt to bid into other work areas, nor did he inform the employer that the conditions were such that he would leave if there was not some change.

## REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer.

Iowa Code § 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.

871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). While the claimant's work situation was perhaps not ideal, he has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973).

To the extent the claimant asserts that his reason for quitting was health-related, the claimant has not presented competent evidence showing adequate health reasons to justify his quitting. He has not established that he had a medical condition which was in fact either caused or aggravated by the work conditions. 871 IAC 24.26(6)b. Further, prior to quitting he did not provide the employer notice of the condition with an indication that if it were not resolved he would be forced to quit. 871 IAC 24.26(6)b; Swanson v. Employment Appeal Board, 554 N.W.2d 294 (Iowa 1996). The claimant has not satisfied his burden. Benefits are denied.

## DECISION:

The representative's December 3, 2007 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of August 16, 2007, benefits are withheld until such time as the claimant has worked in and been

paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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