IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

TANH PHIAKHAMTA
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL NO. 07A-UI-04940-CT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 04/08/07 R: 12
Claimant: Appellant (2)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Tanh Phiakhamta filed an appeal from a representative's decision dated May 7, 2007, reference 02, 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 June 20, 2007. Mr. Phiakhamta participated personally. Chris Lo participated as the interpreter. 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. Phiakhamta 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. Phiakhamta was employed by Tyson from March 8, 1988 until April 3, 2007. He was a full-time production worker. On March 31, 2006 he suffered a heart attack. He returned to work but suffered another heart attack in November of 2006. On another occasion, he had to be taken by ambulance from work because of heart problems.

As of April of 2007, Mr. Phiakhamta's doctor advised that he should not work in the cold and should not lift more than 30 pounds. This recommendation was based on heart and lung problems. His regular job required that he work in a refrigerated area and lift in excess of 30 pounds. The employer did not have any work he could do that was within his restrictions. Because there was no work available, Mr. Phiakhamta decided to relocate to Ohio to be near family.

REASONING AND CONCLUSIONS OF LAW:

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). Mr. Phiakhamta left his employment with Tyson because the work aggravated

his heart and lung problems. His doctor recommended that he not work in cold conditions and that he not lift over 30 pounds. His regular job required that he work in a cold area and perform more lifting than recommended by his doctor. The fact that he was taken to the hospital from work on one occasion suggests that the work was an aggravating factor in his condition. Given the doctor's recommendation, the administrative law judge concludes that continuing in the employment in his regular job posed a serious risk to Mr. Phiakhamta's health.

Mr. Phiakhamta notified the employer of his work restrictions and sought an accommodation to other work that would not violate his restrictions. The employer did not offer him other work that was compatible with his health condition. For the above reasons, the administrative law judge concludes that his separation was for good cause attributable to the employer. The term "good cause attributable to the employer" does not require wrong-doing on the part of the employer and may be attributable to the employment itself. See Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). The administrative law judge notes that Mr. Phiakhamta did not quit his job to relocate. He relocated because suitable work was no longer available with Tyson. For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated May 7, 2007, reference 02, is hereby reversed. Mr. Phiakhamta left his employment with Tyson for good cause attributable to the employment. Benefits are allowed, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs