

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LEROY A LADD**  
Claimant

**APPEAL NO. 07A-UI-03658-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 03/11/07 R: 03  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Leroy A. Ladd filed a timely appeal from an unemployment insurance decision dated April 4, 2007, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held April 24, 2007 with Mr. Ladd participating. Production Manager Jerome Rinkin participated for the employer, Tyson Fresh Meats, Inc.

**ISSUE:**

Did the claimant leave work with good cause attributable to the employer?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Leroy A. Ladd was a production worker for Tyson Fresh Meats, Inc. from September 6, 2005 until February 1, 2007. He was absent from work without contact on January 25, 26, 29, 30 and 31 and on February 1, 2007. Mr. Ladd was incarcerated during that time. Tyson's attendance policy provides that five consecutive absences without contact is considered to be a voluntary quit. The company's policy also provides that absence due to incarceration is unexcused. These policies were covered with Mr. Ladd in orientation. The policies are posted at the company's plant.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the separation was a disqualifying event. It was.

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.

A provision of the Iowa Administrative Code found at 871 IAC 24.25(4) provides that three days of absence without contact in violation of a company policy is presumed to be a quit without good cause attributable to the employer. The evidence in this record establishes that the employer's attendance policy is more generous even than the law. Furthermore, separation from employment because of incarceration is also considered to be a quit without good cause attributable to the employer. See 871 IAC 24.25(16). Based upon the evidence in this record and the principles of law identified herein, the administrative law judge concludes that benefits must be denied.

**DECISION:**

The unemployment insurance decision dated April 4, 2007, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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