

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JESSICA R WILLIAMS**

Claimant

**APPEAL NO: 13A-UI-00257-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**

Employer

**OC: 11/25/12**

**Claimant: Appellant (2)**

Section 96.5-1-d – Voluntary Leaving/Illness or Injury  
871 IAC 24.26-6-b – Work-related Illness or Injury

**STATEMENT OF THE CASE:**

Jessica R. Williams (claimant) appealed a representative's January 9, 2013 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Tyson Fresh Meats (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 11, 2013. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. During the hearing, Claimant's Exhibits A, B, and C were entered into evidence. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntary quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started working for the employer on December 20, 2011. She worked full time on the first shift as production associate at the employer's Dakota City, Nebraska beef processing plant. Her last day of work was November 21, 2012.

At work on November 21 (the day before Thanksgiving) the claimant was experiencing pain in her shoulder and went to the employer's nurse. The nurse told the claimant to wait a few days to see if the pain got better. On Sunday, November 25, the shoulder pain was so bad that the claimant went to a hospital emergency room for treatment. The doctor told her she had severe bursitis and that if she continued to work her job at the employer, the condition would not improve. The claimant was given a note excusing her from work on November 26.

On November 27 the claimant discussed her situation with the employer's human resources representative, and relayed to that representative the doctor's statement that she would not recover if she continued to work in her job with the employer. The representative responded

that she would understand if the claimant decided to quit; the representative did not offer the claimant any alternative positions with the employer that might not aggravate the claimant's condition. After further consideration, the claimant contacted the employer on November 28 and indicated that she was quitting the employment.

#### **REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Leaving employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician with notice to the employer is recognized as grounds that are good cause for quitting. Iowa Code § 96.5-1-d. For the quit to be attributable to the employer, factors or circumstances directly connected with the employment must either cause or aggravated the claimant's condition so as to make it impossible for the employee to continue in employment; the claimant "must present competent evidence showing adequate health reasons to justify termination [and] before quitting [must] have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated." 871 IAC 24.26(6)b.

The claimant has satisfied these requirements. The employer was unable or unwilling to provide reasonable accommodation in order to retain the claimant's employment. "Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787 (Iowa 1956). Benefits are allowed, if the claimant is otherwise eligible.

#### **DECISION:**

The representative's January 9, 2013 decision (reference 02) is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided she 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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