

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALPHA F ANDERSON
Claimant

APPEAL NO. 10A-UI-03278-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 10/18/09
Claimant: Appellant (2)

Section 96.5(1) – Voluntary Quit
Section 96.6(2) – Timeliness of Appeals

STATEMENT OF THE CASE:

Alpha Anderson filed an appeal from a representative's decision dated November 3, 2009, reference 01, which denied benefits based on her separation from Tyson Fresh Meats, Inc. (Tyson). After due notice was issued, a hearing was held by telephone on April 12, 2010. Ms. Anderson participated personally. The employer did not respond to the notice of hearing.

ISSUE:

The first issue in this matter is whether Ms. Anderson's appeal should be considered timely filed. If it is, the issue then becomes whether she was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision that is the subject of this appeal was mailed to Ms. Anderson at her address of record on November 3, 2009. She did not receive the decision. She learned of the decision when she reopened her claim effective February 28, 2010. She then filed an appeal on March 1, 2010.

Ms. Anderson began working for Tyson on February 9, 2009 as a full-time production worker. On February 26, she sustained a work-related injury in which the middle finger of her right hand was amputated down to the first knuckle. She missed approximately three days of work as a result of the injury. Upon her return, she was provided light-duty work in the nurse's station. Approximately one month later, she was moved to the supply room to substitute for another worker. Ms. Anderson did not experience any problems working in either the nurse's station or the supply room.

When the individual for whom she was substituting returned to the supply room job, the employer attempted to return Ms. Anderson to a production position where she would be using a knife. Because of her prior injury, she did not feel comfortable using a knife and began experiencing anxiety attacks. She has been diagnosed as having a post traumatic stress

disorder (PTSD). She sought alternative work with Tyson that did not involve use of a knife but only production jobs were available. As a result, she left the employment.

REASONING AND CONCLUSIONS OF LAW:

Ms. Anderson had ten days in which to appeal the representative's decision that denied benefits to her. Iowa Code section 96.6(2). Inasmuch as she did not receive the decision, she could not have perfected her appeal by the statutory deadline. She filed an appeal the day after she learned of the disqualifying decision. Therefore, the appeal filed on March 1, 2010 shall be deemed timely filed. As such, the administrative law judge has jurisdiction over the separation issue.

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). For reasons that follow, the administrative law judge concludes that Ms. Anderson had good cause attributable to the employer for quitting. 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. Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956).

Ms. Anderson suffers from PTSD as a result of an injury sustained while working for Tyson. The condition manifests itself in anxiety attacks. Given her injury, it is not unreasonable that she would suffer anxiety over the prospect of using a knife and possibly suffering another injury. She began having problems only after the employer removed her from jobs that did not expose her to the risk of a knife injury. At the time of separation, the employer did not have work available that did not present a risk of knife injury. The administrative law judge concludes that continuing in the employment in a production job posed a serious risk to Ms. Anderson's mental health. As such, she had good cause attributable to the employer for quitting. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated November 3, 2010, reference 01, is hereby reversed. Ms. Anderson quit her employment with Tyson for good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css