

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARSHA D SPROLES

Claimant

APPEAL NO. 11A-UI-15443-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON PREPARED FOODS INC

Employer

OC: 10/23/11

Claimant: Appellant (2)

Section 96.5-2-a – Discharge
Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Marsha D. Sproles filed a timely appeal from an unemployment insurance decision dated November 30, 2011, reference 03, that disqualified her for benefits, upon a finding that she had voluntarily left employment without cause attributable to the employer. After due notice was issued, a telephone hearing was held December 27, 2011, with Ms. Sproles participating. Although the employer had provided the name and telephone number of a witness, that number was answered by a recording at the time of the hearing. The administrative law judge left instructions for the witness to call while the hearing was in progress if the witness desired to participate. There was no contact from the witness or from anyone else on behalf of the employer prior to the closing of the record. The administrative law judge takes official notice of Agency benefit payment records.

ISSUES:

Was the separation a quit or a discharge?

Was the separation a disqualifying event?

Was the claimant on a leave of absence?

FINDINGS OF FACT:

Marsha D. Sproles was hired by Tyson Fresh Foods, Inc. on May 21, 2003. She last worked December 26, 2010. She was on leave of absence from December 27, 2010, through December 26, 2011. The leave of absence expired because Ms. Sproles could not return to her prior position for medical reasons and because the employer had no other work available for her. Ms. Sproles filed a claim for unemployment insurance benefits effective October 23, 2011.

REASONING AND CONCLUSIONS OF LAW:

The first step in analyzing this evidence is to characterize the separation. The evidence here establishes that the employer initiated the separation effective December 26, 2011, since it had

no work for Ms. Sproles consistent with her medical restrictions. A separation under these circumstances is better characterized as a discharge, rather than a voluntary quit, because there is no evidence that the claimant desired that the employment end.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The evidence here establishes that Ms. Sproles was discharged because of absence due to a medical condition and that the employer was fully aware of the situation. No disqualification may be imposed under such circumstances. Benefits are allowed as of December 25, 2011.

As noted above, Ms. Sproles initially filed a claim for unemployment insurance benefits during the week of October 23, 2011. She testified that she was on a leave of absence at that time through the week that ended December 24, 2011. In order to receive unemployment insurance benefits for any given week, an individual must be available for work. See Iowa Code section 96.4-3. An individual who is on a negotiated leave of absence is not considered to be unemployed. Therefore, the administrative law judge rules that the claimant is not eligible to receive unemployment insurance benefits during the period of October 23, 2011, through December 24, 2011.

DECISION:

The unemployment insurance decision dated November 30, 2011, reference 03, is reversed. The claimant is entitled to receive unemployment insurance effective December 25, 2011, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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