

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**TAMMIE S DELONG
365 GRACE ST
ARION IA 51520**

**FARMLAND FOODS INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283**

**MARK NEMITZ
UNITED FOOD & COMMERCIAL WORKERS
PO BOX 156
DENISON IA 51442**

**Appeal Number: 05A-UI-04064-CT
OC: 03/20/05 R: 01
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Tammie DeLong filed an appeal from a representative's decision dated April 8, 2005, reference 01, which denied benefits based on her separation from Farmland Foods, Inc. (Farmland). After due notice was issued, a hearing was held by telephone on May 9, 2005. Ms. DeLong participated personally and was represented by Mark Nemitz, United Food & Commercial Workers Local #440. The employer participated by Denise Baldwin, Human Resources Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. DeLong began working for Farmland on February 26, 2004 and last performed services on February 11, 2005. She was employed full time cleaning. She injured her back away from work on or about February 12 and notified the employer of the need to be absent. Ms. DeLong provided medical documentation to support her absences through February 26. She properly reported the intent to be absent on February 28 and March 1 but did not have a doctor's excuse for either day. Ms. DeLong continued calling in sick through March 8.

On March 9, Ms. DeLong was admitted to the hospital. She had a friend call the employer to advise that she would be absent but did not know how long she would be hospitalized. She was released from the hospital on March 15 but did not notify the employer of her release. Her next contact with the employer was on March 21 when she called to report that she would not be coming in. She called in again on March 23. On March 23, she learned from her union that the employer considered her to have quit because she had not reported her absences. Ms. DeLong did not contact the employer at that point concerning her status.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. DeLong was separated from employment for any disqualifying reason. The administrative law judge concludes that she quit when she stopped contacting the employer to advise of her circumstances. The employer was aware of her status though March 9 when she reported that she was in the hospital. The employer had no way of knowing how long she would be hospitalized and unable to work. Ms. DeLong was released from the hospital on March 15 but did not notify the employer. She did not provide the employer any medical documentation of the continued need to be absent after her release from the hospital. After her release, Ms. DeLong did not contact the employer until March 21. Inasmuch as she had been released from the hospital, she could have contacted the employer but did not. She was absent but did not call in on March 16, 17, or 18.

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). The evidence of record does not establish any cause attributable to the employer for Ms. DeLong's separation. It was her choice not to contact the employer for three consecutive days after her release from the hospital. Inasmuch as the evidence does not establish any cause attributable to the employer for the quit, benefits are denied.

DECISION:

The representative's decision dated April 8, 2005, reference 01, is hereby affirmed. Ms. DeLong quit her employment for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/pjs