

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN STARNES
Claimant

APPEAL NO. 09A-UI-07747-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**Original Claim: 04/05/09
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Steven Starnes (claimant) appealed an unemployment insurance decision dated May 19, 2009, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Tyson Fresh Meats, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 15, 2009. The claimant participated in the hearing. The employer participated through Kris Travis, Employment Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time mule/forklift driver from July 22, 2008 through January 29, 2009, when he was terminated for job abandonment. He had already received two warnings for attendance. The claimant called in on January 19 and 20, 2009 to report that he could not work due to loss of transportation. He was a no-call/no-show for the next five consecutive days ending January 27, 2009.

The claimant rode to work with a co-employee, but she quit prior to the claimant's separation. The claimant testified he was being moved to second shift, although there is nothing in his personnel records documenting a move to second shift. He contends he had to quit because he had no transportation or childcare for second shift.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

Iowa Code § 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.

871 IAC 24.25(1) and (17) provide:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

(17) The claimant left because of lack of child care.

Whether the claimant quit due to lack of transportation or lack of childcare, his separation cannot be attributed to the employer. It is his burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated May 19, 2009, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw