

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARGO G MCGEE**

Claimant

**APPEAL NO. 09A-UI-01779-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**

Employer

**OC: 11/02/08 R: 01  
Claimant: Appellant (4)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated February 5, 2009, reference 02, that concluded she voluntarily quit employment without good cause attributable to the employer on November 24, 2008. A telephone hearing was held on February 25, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Isaiah McGee. Will Seger participated in the hearing on behalf of the employer.

**ISSUE:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant worked for the employer as a production worker from August 14, 2007, to October 21, 2008. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer 30 minutes before the start of their shift if they were not able to work as scheduled and were subject to termination if they had over 14 attendance points.

After October 21, the claimant was on a medical leave of absence from employment. She was released to return to work on November 23 and returned to work part time.

The claimant worked from November 23 to December 19. On December 10, the human resources manager warned her that she had 16 points. She was told that she would not be discharged, but if she missed work again, she would be terminated.

The claimant was scheduled to work on December 20. The night before, her seven-year-old was injured. She was absent from work without notifying the employer that day. She was scheduled for work next on December 22 and 23. She called in each day and stated that she would not be at work due to her son's medical condition.

The claimant's husband brought in a doctor's note to the employer documenting her son's injury. He was told the claimant would still receive points for her absences. When the claimant

heard this, she never returned to work or contacted the employer again because she believed she was terminated. No one in management informed the claimant that she had been discharged. The employer considered the claimant to have abandoned her job after she failed to report to work or call in after December 23, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

Iowa Code section 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.

The claimant voluntarily quit employment without good cause attributable to the employer. She failed to report to work or call the employer after December 23 because she had previously been warned that she could not miss work again and learned that she would receive points for missing work on December 22 and 23. No one in management, however, ever told the claimant that she was discharged; she simply assumed that was going to happen. She should have personally contacted the employer to find out her employment status. Since she quit work during the week of December 21, 2008, she is disqualified as of that date, not November 24 as the Agency determined.

**DECISION:**

The unemployment insurance decision dated February 5, 2009, reference 02, is modified in favor of the claimant. The claimant is disqualified from receiving unemployment insurance benefits effective December 21, 2008, and continuing until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css