

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHIRLEY A HENLEY
Claimant

APPEAL NO. 09A-UI-15489-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 09/13/09
Claimant: Appellant (1)

Section 96.5(1)f – Separation Due to Compelling Personal Reason

STATEMENT OF THE CASE:

Shirley Henley filed an appeal from a representative's decision dated October 6, 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 November 17, 2009. Ms. Henley participated personally. The employer did not respond to the notice of hearing. The hearing record was left open to allow Ms. Henley an opportunity to submit telephone records. She gave notice on November 20 that the records were not available. Therefore, the hearing record was closed on November 20, 2009.

ISSUE:

At issue in this matter is whether Ms. Henley 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: Ms. Henley began working for Tyson on December 3, 2008 as a full-time production worker at the employer's Waterloo, Iowa, facility. In July of 2009, she advised her supervisor that she needed to go to Milwaukee to handle some business affairs for her son. Her son was having legal difficulties and his sister was not making sure he kept his court dates. Ms. Henley indicated she would be gone a couple of weeks. Her request was not put in writing.

At some point, Ms. Henley notified Tyson that she was not sure if she would be remaining in Milwaukee or returning to Waterloo. She had periodic contact with Tyson and, at some point in August, was told she no longer had a job. She did not ask why her job was no longer available. She filed a claim for job insurance benefits effective September 13, 2009.

REASONING AND CONCLUSIONS OF LAW:

Ms. Henley left her employment to go to Milwaukee due to a personal matter and told the employer she would be gone a couple of weeks. The administrative law judge appreciates that

she wanted to be on hand to make sure her son fulfilled his court obligations in order to avoid further legal entanglements. It is concluded, therefore, that she had a compelling personal reason for leaving within the context and meaning of Iowa Code section 96.5(1)f. However, her absence exceeded the ten days allowed by law.

Since the supervisor only authorized Ms. Henley to be gone two weeks, it is clear that the employer did not allow her the additional time off referenced in section 96.5(1)f. Because the additional time off was not authorized, the failure to return to work after two weeks constituted a voluntary quit. 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). An individual who leaves employment due to serious family needs or responsibilities is presumed to have left employment without good cause attributable to the employer. 871 IAC 24.25(23). Inasmuch as there was no other reason for Ms. Henley's separation, she is not entitled to job insurance benefits.

DECISION:

The representative's decision dated October 6, 2009, reference 01, is hereby affirmed. Ms. Henley left her employment with Tyson for no good cause attributable to the employer. Benefits are denied until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css