

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA M DOUCET

Claimant

APPEAL NO. 08A-UI-04557-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

**OC: 04/13/08 R: 12
Claimant: Appellant (1)**

Section 96.5-1-d – Voluntary Leaving/Illness or Injury

STATEMENT OF THE CASE:

Debra M. Doucet (claimant) appealed a representative's May 5, 2008 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Tyson Fresh Meats, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 28, 2008. The claimant participated in the hearing. The employer's representative received the hearing notice and responded by calling the Appeals Section on May 27, 2008. The representative indicated that Jim Hook would be available on behalf of the employer at the scheduled time for the hearing at a specified telephone number. However, when the administrative law judge called that number at the scheduled time for the hearing, Mr. Hook was not available; therefore, the employer did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on January 27, 1997. As of approximately 2001 she worked full time as mechanic in the employer's Waterloo, Iowa, pork processing facility. Her last day of work was February 29, 2008. She gave the employer her notice that February 29 would be her last day of work approximately February 10. Her reason for quitting was that she was going to look for less strenuous work, that the work was getting too hard for her to handle.

The claimant had not been advised by a doctor that she should quit or that the workplace was causing any specific medical issues. The claimant had been having increased body pains, such as back, over the past several years and occasionally went to the employer's nurses' station where she was occasionally placed on periods of light duty and given physical therapy, most recently for two or three weeks in approximately November or December 2007. There was no specific reoccurrence of these health issues in the February 2008 timeframe for which she

sought additional care from the employer's medical services, and she did not seek outside medical treatment.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit, she would not be eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Under some circumstances, a quit for medical or health reasons is attributable to the employer. Iowa Code section 96.5-1. Where factors and circumstances directly connected with the employment caused or aggravated an employee's illness, injury, allergy, or disease can be good cause for quitting attributable to the employer. 871 IAC 24.26(6)b. However, in order for this good cause to be found, prior to quitting the employee must present competent evidence showing adequate health reasons to justify ending the employment, and before quitting must have informed the employer of the work-related health problem and inform the employer that the employee intends to quit unless the problem is corrected or the employee is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant has not presented competent evidence showing adequate health reasons to justify her quitting. Further, before quitting she did not inform the employer that due to the alleged work-related health problem she intended to quit unless the problem was corrected or reasonably accommodated. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

DECISION:

The representative's May 5, 2008 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of February 29, 2008, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css