

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALBERT A JOHNSON
Claimant

APPEAL NO. 09A-UI-07351-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 04/12/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Albert Johnson filed a timely appeal from a representative's decision dated May 5, 2009, reference 01, which denied benefits based upon his separation from Tyson Fresh Meats, Inc. After due notice, a telephone hearing was scheduled for and held on June 8, 2009. Mr. Johnson participated personally. The employer participated by John Carreras, Human Resource Manager.

ISSUE:

The issue in this matter is whether the claimant left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds: The claimant was employed as a full-time production worker for Tyson Fresh Meats from September 16, 2008 until February 10, 2009 when he voluntarily left employment. The claimant was paid by the hour. His immediate supervisor was Lyle Woodward.

Mr. Johnson left his employment with this company when he failed to report for a scheduled shift on Saturday, February 7, 2009. Subsequently, the claimant reported indicating that he had been delayed because of child care responsibilities. Subsequently, the claimant was warned by his immediate supervisor that "if he did not report for scheduled work, he would be discharged." The claimant took this statement to mean that he was terminated although the intention of the supervisor was to warn the claimant that he must report for work when scheduled to attend.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes good cause attributable to the employer for leaving his employment. It does not.

The evidence in the record establishes that the claimant had failed to report for scheduled work and that his failure had caused a minor production problem for the company. In an effort to emphasize the need for the claimant to report for scheduled work as directed, the claimant's immediate supervisor stated to the claimant in effect, "if you don't report for scheduled work, that you will be discharged."

Based upon the evidence in the record, the administrative law judge concludes the claimant was not discharged at that time but instead was being issued a warning. The claimant chose to interpret this statement as a discharge and chose to voluntarily relinquish his position with the company although he had not been terminated from employment.

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.

DECISION:

The representative's decision dated May 5, 2009, reference 01, is affirmed. The claimant voluntarily left employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided that he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs