

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERRY DALLENBACH
Claimant

APPEAL NO: 13A-UI-02334-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 01/27/13
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Sherry Dallenbach (claimant) appealed an unemployment insurance decision dated February 21, 2013, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her 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 March 26, 2013. The claimant participated in the hearing. The employer participated through Teri Wray, Assistant Human Resources Manager. Claimant's Exhibits A and B were admitted into evidence. 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 her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time production worker from August 8, 2010 through January 31, 2013 when she voluntarily quit due to a medical condition or illness. She called in and spoke with a human resources clerk on January 22, 2013 to report she would not return but since she did not speak with a manager or fill out the separation paperwork, the employer could not terminate her from the system until after she was a no-call/no-show for eight days. The claimant contends her medical condition was work related but never advised the employer of this claim and never provided any medical documentation supporting that contention, either before or after she quit.

The claimant went home early on January 3, 2013 and took a non-occupational leave of absence from January 4, 2013 through January 11, 2013. She returned to work on January 14, 2013 and worked the next two days but went home early on January 16, 2013 because her brother was in the emergency room. The claimant called in her absences due to illness on January 17, 18 and 21, 2013.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit her employment on January 22, 2013 for a non-work-related medical condition. After the fact, she contends her medical condition was work related but does not have any medical documentation to support that contention. A quit is not for good cause attributable to the employer where an employee decides to leave employment due to medical or physical concerns but does not provide competent medical evidence showing that the condition is caused or aggravated by the employment and has not provided the employer an opportunity to provide an accommodation, or where the condition is not shown to be work related and the employee has not been advised by a licensed and practicing physician to leave the employment until sufficiently recovered and released for work. See 871 IAC 24.25(35), (36); and 871 IAC 24.26(6)b.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated February 21, 2013, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css