

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA L DURAN DE HERNANDEZ
Claimant

APPEAL NO: 09A-UI-04870-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 02/15 /09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Maria L. Duran de Hernandez (claimant) appealed a representative's March 19, 2009 decision (reference 01) that concluded she was not qualified to receive benefits, and the account of Tyson Fresh Meats, Inc. (employer) would not be charged because she had voluntarily quit her employment for reasons that do not qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 23, 2009. The claimant participated in the hearing. The employer did not respond or participate in the hearing. Ike Rocha interpreted 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 voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 30, 2006. The claimant worked full-time packaging product.

The claimant had a week of scheduled vacation in December. The claimant's mother lives in Mexico. Since her mother was ill, the claimant asked the employer for another week off from work. This was granted and the claimant was to return to work on December 15, 2008.

The claimant's mother was hospitalized in Mexico on December 15, 2008. The claimant faxed a note to the employer on December 15 informing the employer she was unable to report back to work because her mother was in the hospital. The claimant did not indicate when she would be back to work because she did not know when her mother would be released. The claimant understood that when she returned from Mexico, she needed to contact the employer.

The claimant's mother was not released from the hospital until January 9, 2009. The claimant did not start to drive back to Iowa until January 9. The claimant returned to Iowa on January 14.

The claimant contacted the employer on January 14 to report she could return to work. The employer informed the claimant that since she had not indicated on her fax when she would return to work, she no longer had a job because she was absent from work a month longer than the employer had approved. The employer told the claimant she could reapply, but the employer did not have any jobs open at that time.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts establish the claimant failed to return to work on December 15, 2008, because her mother had just been hospitalized. The claimant then failed to keep in contact with the employer so they had an idea of when she would return to work. The claimant also failed to make sure the employer would grant her more time off. When the claimant failed to return to work on December 15, she did so for compelling personal reasons. Since she was gone for more than ten working days, the law presumes she voluntarily quit her employment for reasons that do not qualify her to receive benefits. 871 IAC 24.25(20). This means as of February 15, 2009, the claimant is not qualified to receive benefits.

DECISION:

The representative's March 19, 2009 decision (reference 01) is affirmed. The claimant voluntarily left her employment when she did not return to work on December 15, 2008, and had not obtained the employer's approval to have more time off. Since the claimant was absent from work for personal reasons for more than ten days without the employer's approval, she voluntarily left her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of February 15, 2009. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css