

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CLAUDIA A GLOECKLER
Claimant

APPEAL NO. 08A-UI-09554-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 07/27/08 R: 03
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claudia A. Gloeckler (claimant) appealed a representative's October 9, 2008 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 voluntarily quit her employment for reasons that did 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 November 4, 2008. The claimant participated in the hearing. Prior to the hearing, the employer informed the Appeals Section that the employer was not going to 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?

FINDINGS OF FACT:

The claimant started working for the employer on September 30, 2002. The claimant worked full-time. The claimant bid on another job. The employer transferred the claimant to the new job. After the claimant worked two days at the new job, the employer concluded the claimant was not qualified to do this job. The claimant understood she would then go back to her former job.

When the claimant went back to her former job, making small boxes, a manager told the claimant she would no longer be doing her old job. The manager assigned the claimant to another job. The claimant had problems doing this job because she could not reach the boxes and could only work with one arm or hand.

The claimant went to the human resource department and explained what had happened and the problems she had with the new job assignment. The claimant wanted her former job. The claimant understood the employer would not assign her to her former job even though she had

been away from that job for less than a week. The employer told her she had to do the job the employer had recently assigned to her.

On June 29, 2008, the claimant quit her employment because she could not do the new job the employer had assigned her and the person supervising her would not allow her to use the restroom as she needed.

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. Iowa Code § 96.5-1. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6-2.

The law presumes a claimant quits when she leaves employment because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The facts in this case indicate that when the claimant was not qualified to do a new job, the employer would not allow her to go back to her former job. The employer then assigned the claimant to do a job she could only do with one arm or hand. Additionally, the claimant could not reach the boxes she had to work with for the job. The claimant's most recent supervisor failed to allow her to take necessary restroom breaks. For these reasons, the claimant quit her employment for reasons that qualify her to receive benefits. As of July 27, 2008, the claimant is qualified to receive benefits.

DECISION:

The representative's October 9, 2008 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that qualify her to receive benefits as of July 27, 2008. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw