

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KELVIN R WHITE**  
Claimant

**APPEAL NO. 09A-UI-06523-C**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**Original Claim: 03/29/09  
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Kelvin White filed an appeal from a representative's decision dated April 16, 2009, reference 01, which denied benefits based on his separation from Tyson Fresh Meats, Inc. (Tyson). After due notice was issued, a hearing was held on August 3, 2009 in Burlington, Iowa. Mr. White participated personally. The employer did not appear for the hearing.

**ISSUE:**

At issue in this matter is whether Mr. White was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. White began working for Tyson on November 6, 2007 as a full-time production employee. His last day at work was February 17, 2009. He and his son were involved in a car accident in Chicago on that date and Mr. White was hospitalized for two days. He was scheduled to be at work on February 18 but did not call because of his hospitalization. He called and left messages on the employer's answering machine on February 19 and 20. He was released from the hospital on February 20.

Mr. White left messages on the employer's recorder on February 23, 24, and 26 to report that he would not be at work because his son was still in the hospital. He did not call again until March 10, when he called about his paycheck. He stopped calling because he did not feel the employer was showing any concern for his situation. He was notified on or about March 10 that he no longer had a job with Tyson.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes that Mr. White abandoned his job when he stopped reporting for work or notifying the employer of his intentions. Although he may have had a good reason for being away from work, he still had an obligation to notify the employer of his intentions. He could have continued to call the employer or he could have requested a leave of

absence to remain in Chicago with his son. He did neither. For the above reasons, his separation is considered a voluntary quit.

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The term "good cause attributable to the employer" generally refers to some matter over which the employer has control. The evidence of record does not establish any reason attributable to Tyson for Mr. White's separation. An individual who leaves employment due to serious family needs or responsibilities is presumed to have left without good cause attributable to the employer. See 871 IAC 24.25(23).

The administrative law judge has considered the applicability of Iowa Code section 96.5(1)f. Because Mr. White was away from work longer than ten days and the period of absence was not extended by the employer, he is not entitled to benefits under section 96.5(1)f. For the reasons stated herein, benefits are denied.

**DECISION:**

The representative's decision dated April 16, 2009, reference 01, is hereby affirmed. Mr. White left his employment with Tyson for no good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

---

Carolyn F. Coleman  
Administrative Law Judge

---

Decision Dated and Mailed

cfc/kjw