

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

MARCO A CHAN  
665 SANDY AVE  
EL CENTRO CA 92243

TYSON FRESH MEATS INC  
c/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-01413-CT  
OC: 12/26/04 R: 12  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Marco Chan filed an appeal from a representative's decision dated February 1, 2005, reference 01, which denied benefits based on his separation from Tyson Fresh Meats, Inc. (Tyson). After due notice was issued, a hearing was held by telephone on February 24, 2005. Mr. Chan participated personally. The employer responded to the notice of hearing but the designated witness was not available at the number provided at the scheduled time of the hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Chan began working for Tyson on April 14, 2003 as a full-time production worker. He was gone for two weeks in November of 2004 to visit his sick mother in Mexico. On or about December 1, he notified his supervisor that he needed to return to Mexico because of his mother's health. He did not indicate how long he anticipated being gone. As of December 16, Mr. Chan had not been notified as to whether his request for time off had been granted. He was told to check with the general supervisor on December 17 but did not do so. On December 18, he left town and relocated to California, across the border from where his mother lives. The move is a permanent one.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Chan was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Chan told the employer he needed to return to Mexico to visit his sick mother. However, he has not returned to Tyson to re-offer his services at any point after December 16, 2004. Because Mr. Chan has made a permanent move to California, the administrative law judge concludes that he quit to relocate. An individual who leaves employment to relocate to a different locality is presumed to have quit for no good cause attributable to the employer. See 871 IAC 24.25(2).

Mr. Chan did put the employer on notice of his intention to travel to Mexico. However, this does not change the fact that his reason for leaving was not a matter over which his employer had control. The evidence of record does not establish any cause attributable to Tyson for Mr. Chan's quit. Therefore, benefits are denied.

DECISION:

The representative's decision dated February 1, 2005, reference 01, is hereby affirmed. Mr. Chan voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/sc