

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRENT NELSON
Claimant

APPEAL NO: 09A-UI-19240-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 11/29/09

Claimant: Appellant (1)

Section 96.5-1-d – Voluntary Leaving/Illness or Injury

STATEMENT OF THE CASE:

Brent Nelson (claimant) appealed a representative's December 16, 2009 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 4, 2010. The claimant participated in the hearing. Will Sager appeared on the employer's behalf. 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:

Did the claimant voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on March 4, 2008. He worked full time as a production worker at the employer's Storm Lake, Iowa pork processing facility on the second shift. His last day of work was October 31, 2009. He voluntarily quit as of that date by walking off the shift at about 6:15 p.m. and then not returning to work or seeking to return to work.

The claimant had previously had a work-related injury to his finger. As a result, for approximately the last month he had been working on a light duty assignment. October 31 was the fourth day since he was back to working without restrictions. About 5:45 p.m. the claimant's supervisor approached him and inquired why he was not on the line. He indicated to her that he was having some problems with his injured finger hurting and freezing up, that his gloves kept getting caught, and that he needed to get off the skinner machine, his regular work area. The supervisor said nothing, but turned around and walked away.

The claimant became upset at the apparent indifference to his medical issue, and determined to leave, which he did. He did not seek medical attention from the employer's nurse nor did he return to a doctor for further assessment or determination as to whether his restrictions should be reinstated. He did not seek to contact any other supervisor or member of human resources to address his concerns either before leaving on October 31 or days thereafter.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit, he would not be eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Under some circumstances, a quit for medical or health reasons is attributable to the employer. Iowa Code § 96.5-1. Where factors and circumstances directly connected with the employment caused or aggravated an employee's illness, injury, allergy, or disease can be good cause for quitting attributable to the employer. 871 IAC 24.26(6)b. However, in order for this good cause to be found, prior to quitting the employee must present competent evidence showing adequate health reasons to justify ending the employment, and before quitting must have informed the employer of the work-related health problem and inform the employer that the employee intends to quit unless the problem is corrected or the employee is reasonably accommodated. 871 IAC 24.26(6)b

The claimant has not presented competent evidence showing adequate health reasons to justify his quitting. Further, before quitting he did not inform the employer of the work-related health problem and inform the employer that he intended to quit unless the problem was corrected or reasonably accommodated. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

DECISION:

The representative's December 16, 2009 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of October 31, 2009, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs