

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**FERNANDO M GONZALEZ**  
Claimant

**TYSON FRESH MEATS INC**  
Employer

**APPEAL NO. 14A-UI-09843-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/07/14  
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated September 23, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 13, 2014. Claimant participated and had Danyell Gonzales as a witness. Employer participated by Benito Torres. Interpreter Ike Rocha served at the court's convenience throughout the hearing.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on August 1, 2014. Claimant had ill family members in Wisconsin. Claimant went to Wisconsin to try and care for his ill family.

Claimant did not inform employer prior to his leaving for Wisconsin. He didn't get a leave of absence prior to his leaving, but called into the voicemail line every day while he was gone. Claimant had attempted to transfer to Wisconsin Tyson Fresh Meats, but was unable to get a transfer from Iowa. As claimant had not contacted work on August 4, 7, or 8, 2014 employer believed that claimant had moved away. Claimant attempted to return to employer after he was unable to get his work transferred to Wisconsin, but was unable to get his job back as he had voluntarily absented himself for at least a week's period of time.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.25(23) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of claimant having sick family members in Wisconsin. Claimant did not get a leave of absence prior to his leaving his employment. Claimant did not consistently call into work while absent.

Claimant had serious reasons to go to Wisconsin for work. Unfortunately claimant did not gain approval from employer to spend at least a week with his family away from work. Claimant has not shown that the good cause for his absence is attributable to his employer and as a result claimant is disqualified from the receipt of unemployment benefits.

**DECISION:**

The decision of the representative dated September 23, 2014, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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