

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CATHERINE E JOHNSON
Claimant

APPEAL NO. 09A-UI-04068-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**Original Claim: 02/01/09
Claimant: Appellant (2)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Catherine Johnson filed an appeal from a representative's decision dated March 9, 2009, reference 01, which denied benefits based on her separation from Tyson Fresh Meats, Inc. (Tyson). After due notice was issued, a hearing was held by telephone on April 9, 2009. Ms. Johnson participated personally. The employer did not respond to the notice of hearing. The hearing was recessed pending receipt of additional information. The hearing reconvened on May 13, 2009. Ms. Johnson again participated personally. As of the date of the rescheduled hearing, the employer had not responded to the notice of hearing.

ISSUE:

At issue in this matter is whether Ms. Johnson 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: Ms. Johnson began working for Tyson on March 31, 2008 as a full-time production employee. She suffered a stroke on November 21 and was hospitalized for one week. She returned to work on December 29 and worked for two days before she suffered another stroke, this one while at work. She was released from her doctor's care on December 31, but was advised not to return to Tyson. The recommendation was based on the doctor's belief that the work was too strenuous and on the fact that Ms. Johnson suffers from carpal tunnel syndrome and tendonitis.

Ms. Johnson has been advised to avoid work that requires repetitive use of her hands and work that requires heavy exertion. She has been seeking work as a cashier, sales associate, or nursing assistant. She retains the capacity to perform some work activity.

REASONING AND CONCLUSIONS OF LAW:

Ms. Johnson left her employment with Tyson based on her doctor's recommendation. Because of her history of strokes, carpal tunnel syndrome, and tendonitis, remaining in the employment

with Tyson posed a risk to her health. Although there was no wrong-doing on the part of the employer, her separation was attributable to the employment itself. Therefore, she had good cause for leaving as required by Iowa Code section 96.5(1).

Ms. Johnson retains the residual functional capacity to perform some work that is engaged in by others as a means of livelihood. As such, she satisfies the availability requirements of Iowa Code section 96.4(3). Accordingly, benefits are allowed.

DECISION:

The representative's decision dated March 9, 2009, reference 01, is hereby reversed. Ms. Johnson left her employment with Tyson for good cause attributable to the employment. She is able to and available for work. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw