

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

NYAKIER KOUR
Claimant

APPEAL NO: 06A-UI-08129-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**OC: 07/02/06 R: 02
Claimant: Respondent (2)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Tyson, filed an appeal from a decision dated August 3, 2006, reference 01. The decision allowed benefits to the claimant, Nyakier Kour. After due notice was issued a hearing was held by telephone conference call on August 30, 2006. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by Employee Relations Manager Tom Barragan.

ISSUE:

The issue is whether the claimant quit work for reasons which would disqualify her from receiving unemployment benefits.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Nyakier Kour was employed by Tyson from July 25 until November 22, 2005. She was a full-time production worker.

The claimant requested, and was granted, a leave of absence from October 31 with a return to work date of November 16, 2005. This was for a non-work-related condition. Ms. Kour did not return to work on November 16, 2005, and was no-call/no-show to work after that date.

Nyakier Kour filed a claim for unemployment benefits with an effective date of July 2, 2006. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.25(4) 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 section 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 section 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:

- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant was scheduled to return to work on November 16, 2005, but did not do so. She had no contact with the employer since that time and the employer considered her to be a voluntary quit by job abandonment as of November 27, 2005. Under the provisions of the above Administrative Code section, three days of no-call/no-show are considered a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of August 3, 2006, reference 01, is reversed. Nyakier Kour is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs