

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**APRIL S HERNANDEZ**  
Claimant

**APPEAL NO. 07A-UI-04725-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 04/08/07 R: 04**  
**Claimant: Appellant (2-R)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated May 3, 2007, reference 06, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on May 24, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

**ISSUE:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a production worker from the end of December 2006 to January 15, 2007. While the claimant was working on January 15, a forklift operator ran into the table where the claimant was working, which caused the table to slam into the claimant's stomach.

The claimant was pregnant and immediately went to the doctor. The doctor advised her not to return to the production floor due to a concern about complications with her pregnancy. The claimant contacted management about what had happened and informed the manager about her doctor's advice.

The employer did not transfer the claimant to a different position or take corrective action against the forklift operator who was not certified to drive the forklift. As a result, the claimant left employment.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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.

The unemployment insurance rules provide that a claimant is qualified to receive benefits if compelled to leave employment due to a medical condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work caused or aggravated the medical condition and made it impossible for the claimant to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related medical condition and that she intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The evidence establishes that the claimant was compelled to leave employment based on health reasons attributable to the employer and had satisfied the conditions of 871 IAC 24.26(6)b to receive benefits.

While the claimant is eligible to receive benefits based on her separation from the employer, it appears from the claim records that she was disqualified based on her separation from employment from Team Staffing Solutions in an unemployment insurance decision dated April 30, 2007, reference 03, but that disqualification was not implemented. This matter is remanded for the Agency to determine whether this disqualification should be imposed.

The claimant's delivery date is May 28, 2007. She is advised that the law requires that an individual be available to work at least a majority of a week in order to receive benefits. Penalties can be imposed if a claimant willfully misrepresents information to receive benefits.

**DECISION:**

The unemployment insurance decision dated May 3, 2007, reference 06, is reversed. The claimant is not subject to disqualification based on her separation from the employer. This case is remanded for the Agency to determine whether the disqualification in an unemployment insurance decision dated April 30, 2007, reference 03, based on her separation from employment from Team Staffing Solutions should be imposed.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css