

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LETICIA CORTEZ ANGUIANO**  
Claimant

**APPEAL NO. 07A-UI-02210-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 01/28/07 R: 01**  
**Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Tyson Fresh Meats, Inc. (employer) appealed a representative's February 16, 2007 decision (reference 01) that concluded Leticia Cortez Anguiano (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit her employment for reasons that qualified her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 21, 2007. The claimant participated in the hearing. Ike Rocha interpreted the hearing. Susan Pfeifer, the human resource manager, Rueben Acosta, the beef general supervisor, and Chuck Clark, the line supervisor, 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.

**ISSUES:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer on July 31, 2000. The claimant worked full-time. The claimant's most recent job involved working on a slicing machine. The claimant's supervisor was Clark.

After Clark became the claimant's supervisor, the claimant made several complaints about him to Pfeifer. The most recent complaint occurred on October 6, 2006. The claimant's complaint included the fact that Clark yelled at her and touched her arm. The employer investigated the claimant's complaint by talking to co-workers. The employer informed the claimant that her complaint could not be substantiated. The claimant took a leave of absence and returned to work in January 2007. The claimant did not have any problems with Clark until January 24.

On January 24, the employer ran both sides of the production line from 7:15 a.m. to 9:45 a.m. When employees returned from a break at 10:00 a.m., the employer decided to run only one side. The employee who worked the north side of the slicing machine was assigned to another job. The employer expected employees who had been working the south side of the line to continue doing the same job. Usually, Clark allowed employees to rotate or change from south to north so one side of the employee's body did not become overly fatigued. After the break, the claimant objected to operating the slicing machine on the south side and went to another job.

When Clark learned the claimant was not at the slicing machine, he asked her to talk to Acosta who speaks Spanish. The employer told the claimant that not every supervisor had employees rotate and while Clark usually allowed employees to rotate, that he could not because the employer was doing a short production. The claimant indicated that because her partner who had been working on the north side had been moved to another job, she also wanted to move to another job. The employer did not allow this. The claimant also told the employer that she did not want to continue working on the south side because she would experience pain if she continued working on the same side. After Acosta told the claimant to go back to the slicing machine, she did.

When the claimant returned to the slicing machine, Clark noticed she was upset. Even though Clark concluded the claimant's issues had been resolved by Acosta, within a short time of returning to the slicing machine, the claimant asked for permission to leave and speak to Pfeiffer. When the claimant arrived at Pfeiffer's office, Pfeiffer was talking to another employee and the claimant was asked to wait. The claimant waited a while but left before she had an opportunity to talk to Pfeiffer. The claimant was emotionally upset when she left work. The claimant did not return to work. The claimant did not return to work because of the problems she encountered with Clark.

The claimant established a claim for unemployment insurance benefits during the week of January 28, 2007. The claimant filed claims for the weeks ending February 3 through March 10, 2007. The claimant received her maximum weekly benefit amount of \$360.00 for each of these weeks.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive unemployment insurance benefits. Iowa Code § 96.6-2.

The law presumes a claimant voluntarily quits with good cause when a claimant quits because of intolerable or detrimental working conditions. 871 IAC 24I26(4). The law also presumes a claimant voluntarily quits employment without good cause when she quits because of a personality conflict with her supervisor. 871 IAC 24.25(22).

The claimant quit her employment on January 24, 2007. The claimant asserted she quit because the employer made her do a job the employer's nurse previously told her she could not do on a continuous basis in July 2006. The facts, however, reveal that in early August 2006, the claimant went to the employer's nurse for shoulder pain. The nurse looked at the claimant's shoulder but did not give her any work restrictions. By August 14, 2006, the claimant's shoulder pain had gone away and the claimant made no further complaints about pain in her shoulder. Even though the claimant did not usually work just one side of the slicing machine longer than

three hours, she did not have any work restrictions indicating she could not work one side of the machine for more than three hours.

The claimant also indicated she quit based on the complaints she made about Clark in early October. Even though the claimant did not like the results of the employer's investigation, the claimant knew the employer found no one to substantiate the claimant's complaints. More importantly, the claimant did not experience any problems with Clark after she returned to work until January 24, 2007.

The facts establish the claimant wanted Clark to assign her to another job as the other slicing machine operator had been assigned. Without any medical necessity or other compelling reason for doing so, an employee's desire as to what job she is assigned is not a factor a supervisor needs to consider when assigning jobs. In this case, Acosta ultimately told the claimant to go back to her job, which upset the claimant.

The claimant also asserted that if she continued to work at the slicing machine, she would experience pain. At the time the claimant left work she was not in pain and there is no evidence she would be in pain if she had continued to work on the slicing machine. A preponderance of the evidence indicates the claimant became upset on January 24 because the employer did not assign her the job she wanted. The claimant did not establish that she quit because working conditions were intolerable.

Based on her complaints, the facts suggest she had a personality conflict with her supervisor, but this reason for quitting does not qualify a claimant to receive benefits. In the claimant's mind she established compelling reasons for quitting. For unemployment insurance purposes, the claimant quit for reasons that do not qualify her to receive unemployment insurance benefits. As of January 28, 2007, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive unemployment insurance benefits during the weeks ending February 3 through March 10, 2007. The claimant has been overpaid \$2,160.00 in benefits she received for these weeks.

#### **DECISION:**

The representative's February 16, 2007 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of January 28, 2007. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The

employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending February 3 through March 10, 2007. The claimant has been overpaid and must repay a total of \$2,160.00 in benefits she received for these weeks.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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