

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMMAR I SHAKIR
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL 15A-UI-06931-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/24/15
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 10, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination he voluntarily quit his employment without good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on July 21, 2015. Claimant Ammar Shakir participated on his own behalf and through interpreter Solomon from CTS Language Link. Employer Tyson Fresh Meats, Inc. participated through human resources representative Alberto Olguin. Claimant's Exhibit A was received and admitted into the record.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a production worker beginning September 19, 2011, and was separated from employment on May 1, 2015. The claimant's last day of work was on March 6, 2015. He was approved leave time until April 27, 2015 so he could travel to Iraq. The claimant did not return on his scheduled date as he was admitted to a hospital in Iraq for food poisoning on April 26, 2015. The claimant did not notify the employer of his illness. Instead, he contacted his friend and asked his friend to notify the employer. On April 28, 2015, the claimant was discharged from the hospital. On May 1, 2015, after five days without contact from the claimant, the employer determined the claimant had abandoned his job per the collective bargaining agreement. The claimant returned to the United States on May 25, 2015 and learned the following day that he was no longer employed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

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(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.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. The claimant's argument that he was unable to contact his employer from Iraq is not persuasive as he was able to contact his friend who was in the United States. If the issue was contacting his employer from the hospital, the claimant was released from the hospital two days before he was terminated and had time to contact the employer. Additionally, the claimant did not return to the country for one month following his release from the hospital and did not contact his employer at any time during that month. Inasmuch as the claimant failed to report for work or notify the employer for at least three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are denied.

DECISION:

The June 10, 2015, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/pjs