

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**XUE YANG**

Claimant

**APPEAL NO: 11A-UI-16201-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**

Employer

**OC: 11/13/11**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Xue Yang (claimant) appealed a representative's December 14, 2011 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment with Tyson Fresh Meats, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 10, 2012. The claimant participated in the hearing. Will Sager appeared on the employer's behalf. Doua Lor served as interpreter. 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.

**ISSUE:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**OUTCOME:**

Affirmed. Benefits denied.

**FINDINGS OF FACT:**

The claimant started working for the employer on April 25, 2011. He worked full time as a production worker on the day shift at the employer's Storm Lake, Iowa facility. His last day of work was October 18, 2011.

The claimant is trained to be a fork lift operator, and was seeking work in that occupation. After work on October 18 the claimant received a call from a potential employer in Tulsa, Oklahoma. The potential employer indicated that it was hiring fork lift operators, and that if the claimant could get to Tulsa by October 20, he might be hired. The claimant did communicate to his supervisor that he would not be returning to work because he was going to move to Tulsa to seek the fork lift operator job. The claimant moved his entire family with him to Tulsa on October 19. However, when he went into the new potential employer for the interview on October 20, he was told that he needed some additional education before he could be hired, so he was not given the job with the potential employer at that time.

The claimant did not seek to return to his job with the employer in Storm Lake when he did not get the Tulsa job because he had already moved his entire family to Tulsa. His son-in-law turned in his equipment to the employer on October 22.

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

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code section 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. Quitting employment because of a hope of being hired by a new employer, where in fact the claimant is not hired by the hoped-for new employer, is not a good cause for quitting attributable to the prior employer. 871 IAC 24.25(3). Here the claimant quit his employment with this Iowa employer to pursue a hoped-for employment with the potential Oklahoma employer which failed to materialize, but the quit from the Iowa employer is not attributable to the Iowa employer. Benefits are denied.

#### **DECISION:**

The representative's December 14, 2011 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of October 18, 2011, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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