

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY E WOOTEN
Claimant

APPEAL NO. 13A-UI-04035-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 02/24/13
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving – Layoff

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated April 2, 2013, reference 01, which denied unemployment insurance benefits finding that the claimant voluntarily quit work due to a non-work-related medical condition. After due notice was provided, a telephone hearing was held on May 9, 2013. The claimant participated. Although duly notified, the employer did not participate.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Mary Wooten began employment with Tyson Fresh Meats, Inc. on February 12, 2008. Ms. Wooten was initially hired as a full-time production worker. When the claimant's regular production job was eliminated by the company, Ms. Wooten was assigned to work as a "floater" until February 22, 2013 when she was sent home by the company due to lack of work. Ms. Wooten was informed at that time that the floater position no longer was available to her and that the claimant would be required to bid on an open job position and that the claimant could resume her employment if she successfully obtained a bid job.

Ms. Wooten immediately began bidding on jobs in attempting to end her unemployment. The claimant successfully bid on a job and was re-employed by Tyson Fresh Meats, Inc. effective April 30, 2013.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was laid off due to a lack of work.

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.

In this case the claimant did not initiate the job separation but was sent home by the company when her most recent position as a "floater" was no longer available to the claimant. No work was available to Ms. Wooten from February 22, 2013 until April 30, 2013 when she was re-employed after successfully bidding on an open job position in the company.

For the reasons stated herein the separation was attributable to a lack of work by the employer. Benefits are allowed providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated April 2, 2013, reference 01, is reversed. The claimant was separated due to lack of work that was attributable to the employer. Unemployment insurance benefits are allowed effective February 22, 2013, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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