

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHERITA M JETT

Claimant

APPEAL NO. 11A-UI-15659-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

OC: 11/13/11

Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Cherita Jett, filed an appeal from a decision dated December 6, 2011, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on January 11, 2011. The claimant participated on her own behalf. The employer, Tyson, participated by Employment Manager Kris Travis.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Cherita Jett was employed by Tyson from October 14, 2008 until October 31, 2011 as a full-time production laborer. Her last day of work was Friday, October 14, 2011. She called in absent the next week from Monday through Thursday for “personal business.” She had lost her child care provider.

After Thursday, October 21, 2011, she no longer called in because she did not have a phone and did not come into work because she not only had no child care but no transportation. After being no-call/no-show for seven work days she was considered a voluntary quit for job abandonment. Notification was sent to her by mail of the separation.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 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.

The claimant ceased coming to work because of loss of transportation and child care. Neither one of these constitutes an excused absence. *Harlan v. IDJS*, 350 N.W.2d 192 (Iowa 1984). Even if they would have constituted good cause for missing work, the fact they were not properly reported resulted in voluntary quit by operation of law for being no-call/no-show for more than three days. The record establishes the claimant quit without good cause attributable to the employer and she is disqualified.

DECISION:

The representative's decision of December 6, 2011, reference 02, is affirmed. Cherita Jett is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css