

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRAD G BUREN

Claimant

APPEAL NO. 07A-UI-09008-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

**OC: 08/26/07 R: 01
Claimant: Appellant (1)**

Section 96.5-1-d – Voluntary Leaving/Illness or Injury

STATEMENT OF THE CASE:

Brad G. Buren (claimant) appealed a representative's September 18, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Tyson Fresh Meats, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 8, 2007. The claimant participated in the hearing. William Kunneke appeared on the employer's behalf and presented testimony from one other witness, Terry Schultz. 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 voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on April 20, 1987. Since approximately October 2004 he worked full time as a supervisor on the kill floor of the employer's Denison, Iowa, beef slaughter plant. His last day of work was August 24, 2007. He voluntarily quit as of that date.

On August 24, the claimant advised his subordinates as well as his superior, Mr. Schultz, that that day would be his last day, indicating that he "couldn't take it anymore." The claimant was referencing stress. He had indicated to Mr. Schultz in approximately early May that he was having some problems sleeping thinking about work; however, he further indicated that this was a problem that ran in his family. He did not advise Mr. Schultz that he had also been prescribed some medication for depression.

The claimant had frustrations at work due to having some staffing shortages that had necessitated that he and other supervisors also assist on working the line for various periods over the past year and a half. He was further frustrated by comments by his superiors that the work or production was "not good enough." He was concerned about the impact of the stress and sleeplessness on his health, but he had not been advised by his doctor to quit. He also had

not advised the employer that steps to reduce his stress needed to be taken to avoid him quitting.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit, he would not be eligible for unemployment insurance benefits unless it was for good cause attributable to the employer.

Iowa Code section 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

871 IAC 24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

The claimant has not presented competent evidence showing adequate health reasons to justify his quitting. Further, before quitting he did not inform the employer of the work-related health

problem and inform the employer that he intended to quit unless the problem was corrected or reasonably accommodated. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

DECISION:

The representative's September 18, 2007 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of August 24, 2007, 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css