

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TIMOTHY L GRAFTON**  
Claimant

**APPEAL 15A-UI-09243-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON PET PRODUCTS INC**  
Employer

**OC: 07/12/15  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 6, 2015, (reference 02) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on September 2, 2015. Claimant participated. Employer did not participate.

**ISSUE:**

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as an oven assistant from April 24, 2014, and was separated from employment on July 7, 2015, when he voluntarily quit.

Claimant was on vacation from June 29 through July 3, 2015. Claimant was scheduled to report back to work on July 6, 2015. However, claimant learned he was required to report to jail on July 5, 2015, and remain there for five days. Claimant called employer's human resource employee, Brooke Salger, two or three times before becoming incarcerated. Claimant left Salger voice messages on each occasion, but she did not return his calls. Claimant was incarcerated from July 5 through 10, 2015. Claimant missed work on July 6, 7, 8, 9, and 10, 2015. Claimant attempted to call Salger on July 13, 2015, but she did not answer or return claimant's phone call.

**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.

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(16) 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 § 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 § 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

An individual who does not report to the employment because of incarceration is *presumed* to have quit without good cause attributable to the employer. Iowa Admin. Code r. 871-24.25(16). An employer is entitled to expect its employees to report to work as scheduled. The claimant's incarceration on multiple scheduled workdays was not a good-cause reason for the separation attributable to the employer. Employer's attribution of the absences as a voluntary leaving of employment was reasonable as it is not expected to hold employment for incarcerated employees.

**DECISION:**

The August 6, 2015, (reference 02) 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.

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Decision Dated and Mailed

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