

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELLE A BELL
Claimant

APPEAL NO. 12A-UI-04307-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 03/25/12
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Michelle Bell (claimant) appealed a representative's April 18, 2012 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was discharged from work with Tyson Fresh Meats (employer) for excessive unexcused absenteeism. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 8, 2012. The claimant was represented by Amy Roller, Attorney at Law, and participated personally. The employer participated by James Hook, Human Resources Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 2, 2011, as a full-time hourly production worker. The employer has a policy that states absences should be reported to the employer 30 minutes prior to the start of the shift.

On March 14, 2012, the claimant reported to the employer that her hands hurt and were puffy. The employer treated the condition. On March 19, 2012, the claimant had a follow-up appointment and the employer placed the claimant on light duty through March 23, 2012. On March 23, 2012, the employer opened a workers' compensation case and continued the claimant's restrictions.

On March 24, 2012, the claimant suffered a non-work-related leg and knee injury. On March 26, 2012, the claimant arrived at work, went to health services regarding her leg injury, and then reported she would not be working that day. At the time she reported she would be absent, it was more than 30 minutes after the start of her shift.

The claimant properly reported her absences on March 27, 28, and 29, 2012. On March 30, 2012, the claimant knew she would not be reporting to work because she had a doctor's

appointment scheduled for 2:00 p.m. but did not notify the employer she would be absent from work. The claimant next contacted the employer on April 11, 2012. The employer assumed the claimant had quit work after eight days of failure to report her absences.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by the claimant's actions. The claimant stopped appearing for work and notifying the employer of her absences. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's April 18, 2012 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs