

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEYDA C SANTIAGO

Claimant

APPEAL NO. 09A-UI-08156-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

OC: 02/22/09

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Leyda Santiago filed an untimely appeal from a representative's decision dated April 8, 2009, reference 01, which denied benefits based upon her separation from Tyson Fresh Meats, Inc. After due notice, a telephone conference hearing was scheduled for and held on June 23, 2009. Ms. Santiago participated personally. The employer participated by Ms. Nicole Koeppen.

ISSUES:

The issues are whether the appeal filed herein was timely and whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant was employed as a production worker for Tyson Fresh Meats from January 8, 2008, until February 24, 2009, when she voluntarily left employment to relocate to a different geographic area. Ms. Santiago worked as a full-time production worker and was paid by the hour.

The claimant left unemployment with Tyson Fresh Meats, Inc., for the stated purpose of traveling to Mexico due to her mother's illness. Upon leaving unemployment with Tyson Fresh Meats, the claimant immediately relocated to the state of California and subsequently to Guam. During the course of her employment, the claimant had been allowed off work on numerous occasions for medical/psychological appointments. The claimant was aware that if she had any employment problems while employed by Tyson Fresh Meats, she could bring the issue to the attention of upper management or the company's human resource department. Prior to leaving her employment, the claimant did not indicate any problems with her employment.

The claimant maintains that her appeal was filed late due to a delay in receiving the fact-finder's decision because of changing residence locations.

It is the claimant's further position that she did not leave her employment for the stated purpose of visiting her sick mother, but instead because her supervisor would not allow her off for additional psychological appointments.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes, based upon the evidence in the record, that the claimant has shown good cause for filing her appeal beyond the ten-day statutory time limit based upon the claimant's sworn testimony that she had taken all action to update her address with the U.S. Postal Service, but that her mail had nonetheless been delayed.

The question before the administrative law judge is whether the evidence in the record establishes good cause attributable to Tyson Fresh Meats for Ms. Santiago leaving her employment. It does not.

The evidence in the record establishes that the claimant gave the stated reason of leaving employment as the necessity that she travel to Mexico to visit her ailing mother. The employer has no other reason listed by the claimant for leaving employment and the claimant did not complain or indicate to the employer in any manner that she was leaving because of any problem with her immediate supervisor. The administrative law judge notes that the claimant's relocation to the state of California at the same time that the claimant left her employment with Tyson Fresh Meats, however the claimant maintains that her change in geographic residence and her leaving employment was coincidental; the administrative law judge concludes that the claimant's testimony with respect to this matter strains credibility.

The evidence in the record establishes that all employees are specifically informed at the time of hire of their ability to go up the chain of command with complaints about their supervisors if necessary. Employees are also informed that they can go to the company human resource department if they are having difficulty with their immediate supervisor. Although aware of this open door policy, Ms. Santiago did not complain in any manner about the manner that she was being treated by her supervisor or any failures on the part of the supervisor to grant the claimant time off work when requested.

Based upon the evidence in the record, the administrative law judge concludes that the claimant left her employment for personal reasons that were not attributable to her employment with Tyson Fresh Meats.

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.

For the reasons stated herein, the administrative law judge finds the claimant left employment for disqualifying reasons. Unemployment insurance benefits are withheld.

Based upon the evidence in the record, the administrative law judge concludes that there may be an issue with respect to the claimant's ability and availability for work based upon the testimony regarding the repetitive nature of her need to visit medical/psychological practitioners.

DECISION:

Representative's decision dated April 8, 2009, reference 01, is affirmed. Claimant voluntarily quit work for personal reasons. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

srs/pjs