

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EVANGELINA RODRIGUEZ**  
Claimant

**APPEAL NO: 11A-UI-11713-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LOFFREDO FRESH PRODUCE CO INC  
LOFFREDO GARDENS INC**  
Employer

**OC: 07/24/11  
Claimant: Appellant (4/R)**

Iowa Code § 96.5-1-a - Voluntary Leaving - Other Employment  
871 IAC 24.28(5) - Voluntary Quit Requalifications

**STATEMENT OF THE CASE:**

Evangelina Rodriguez (claimant) appealed an unemployment insurance decision dated August 29, 2011, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Loffredo Gardens, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 29, 2011. The claimant participated in the hearing. Ike Rocha interpreted on behalf of the claimant. The employer participated through Maria Peralta, Human Resources Representative. 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:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

**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 employed as a full-time fresh cut processor from December 29, 2010 through June 15, 2011. Continued work was available. The claimant left her employment to accept other employment at Iowa Pacific Processors and she worked for Iowa Pacific Processors.

Agency wage records indicate that the claimant's last employer prior to filing her claim for benefits was Iowa Pacific Processors, account number 262448. It does not appear the Agency sent this employer a Notice of Claim.

## REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment to accept employment elsewhere.

Iowa Code § 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

871 IAC 23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code § 96.5(1). An exception is if the individual left in good faith for the sole purpose of accepting other employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. Accordingly, benefits are allowed and the employer's account shall not be charged.

The claimant's separation from Iowa Pacific Processors has yet to be determined and will be remanded.

**DECISION:**

The unemployment insurance decision dated August 29, 2011, reference 01, is modified in favor of the claimant. The claimant voluntarily left her employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account shall not be charged. The issue of whether the claimant is qualified to receive unemployment insurance benefits based on her separation from Iowa Pacific Processors is remanded to the Agency to determine.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs