

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

JOHN M AKOI
Claimant

APPEAL NO. 18A-UI-12043-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SMITHFIELD FARMLAND CORP
Employer

OC: 11/25/18
Claimant: Appellant (4)

Iowa Code Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

STATEMENT OF THE CASE:

John Akoi filed a timely appeal from the December 10, 2018, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Mr. Akoi voluntarily quit on October 20, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on January 3, 2019. Mr. Akoi participated. Becky Jacobsen represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: Database Readout (DBRO), the December 17, 2018, reference 02, decision, and the ADP record of wages the claimant earned through employment with Wells Enterprises.

ISSUE:

Whether John Akoi voluntarily quit employment with Smithfield Farmland Corporation, now known as Smithfield Fresh Meats Company, for the sole purpose of accepting other, better employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On July 21, 2018, John Akoi voluntarily quit his full-time production employment with Smithfield Fresh Meats Company, formerly known as Smithfield Farmland Corporation, for the sole purpose of accepting new, full-time employment with Wells Enterprises. At the time Mr. Akoi quit the Smithfield employment, that employer continued to have work available for him. Mr. Akoi commenced the Wells Enterprises employment on July 23, 2018 and continued to perform work for the new employer until November 25, 2018. Mr. Akoi earned in excess of \$18,000.00 from the new employment. Mr. Akoi established an original claim for unemployment insurance benefits that was effective November 25, 2018. Iowa Workforce Development set Mr. Akoi's weekly benefit amount at \$467.00.

REASONING AND CONCLUSIONS OF LAW:

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Iowa Code section 96.5(1)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.28(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. The employment does not have to be covered employment and does not include self-employment.

Because Mr. Akoi voluntarily quit the Smithfield employment for the sole purpose of accepting other full-time employment, the July 21, 2018 quit from Smithfield does not disqualify Mr. Akoi for unemployment insurance benefits. Mr. Akoi is eligible for benefits in connection with the November 25, 2018 unemployment insurance claim provided he meets all other eligibility requirements. Because the voluntary quit was without good cause attributable to Smithfield Farmland Corporation (employer account number 541984). That employer account shall not be charged for benefits paid to Mr. Akoi. Benefits shall instead be charged to the unemployment compensation fund.

DECISION:

The December 10, 2018, reference 01, decision is modified as follows. The claimant voluntarily quit to accept other employment. The quit date was July 21, 2018. The claimant is eligible for benefits, provided he meets all other eligibility requirements. The voluntary quit was without good cause attributable to employer Smithfield Farmland Corporation (employer account number 541984). That employer account shall not be charged for benefits paid to the claimant. Benefits shall instead be charged to the unemployment compensation fund.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs