

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSE CERVANTES
Claimant

APPEAL NO. 08A-UI-10344-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KRAFT PIZZA CO
Employer

**OC: 09/07/08 R: 12
Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the October 31, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on November 19, 2008. Claimant participated and presented additional testimony through Debbie Cervantes and Veronica Cervantes. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jose Cervantes was employed by Kraft Pizza Company as a full-time grinder operator from August 19, 1993 until on or about March 31, 2008, when he voluntarily quit. Mr. Cervantes' quit was not prompted by anything occurring in or associated with the employment. Instead, Mr. Cervantes' marriage was in the process of being dissolved and Mr. Cervantes was under a great deal of personal stress. Mr. Cervantes left the employment and relocated to Elgin, Illinois, where he moved in with his son. Mr. Cervantes did not return to Kraft Pizza Company. Mr. Cervantes sought employment in Illinois, located seasonal employment, and subsequently separated from the seasonal employment.

REASONING AND CONCLUSIONS OF LAW:

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.

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.

The evidence in the record establishes compelling personal reasons for Mr. Cervantes' voluntary separation from the employment. However, because the voluntary quit was not for good cause attributable to the employer, Mr. Cervantes would not be eligible for unemployment insurance benefits. Mr. Cervantes is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Cervantes.

In the event that Mr. Cervantes earned 10 times his weekly benefit amount from insured employment after separating from Kraft Pizza Company, Mr. Cervantes should provide evidence of those wages to Iowa Workforce Development, so that the Agency can determine whether Mr. Cervantes has requalified for unemployment insurance benefits.

DECISION:

The Agency representative's October 31, 2008, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs