

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANA FLORES DE DE LA PAZ
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL 21A-UI-06968-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/17/21
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.5(2)A – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant, Ana Flores De De La Paz, appealed a representative's March 3, 2021, decision (reference 01) that concluded claimant was not eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 17, 2021. The claimant participated personally. The claimant was represented by attorney, Mary Hoefer. CTS Language Link provided Spanish interpretation services. No exhibits were received into the file.

The administrative law judge took official notice of the administrative file.

ISSUE:

The issues include 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 December 5, 2006 as a line worker. She had suffered a work related injury and opened a worker's compensation case. Her last day physically working on the job was in November 2020. In December 2020, the claimant signed a release. Based on the claimant's separation from employment, the claimant received a payment of undefined workers' compensation benefits. The claimant agreed to resign from employment and release the employer from liability for her workers' compensation claim.

The claimant was also having physical difficulties performing her job duties.

The claimant filed for unemployment insurance benefits with an effective date of January 17, 2021.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether 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, 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.

Iowa Admin. Code r. 871-24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

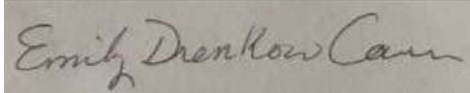
(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

In *Edward v. Sentinal Management Company*, 611 NW2d 366 (Minn. App. 2000) the Minnesota Court of Appeals concluded that claimant who resigned as a part of a workers' comp settlement package left employment voluntarily without good cause attributable to the employer because he had the option of remaining as an employee while pursuing his workers' compensation claim. The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she was leaving and quit work. 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).

When an employee gives notice of an intent to quit and the employer accepts the employee's resignation, her leaving is without good cause attributable to the employer. While it is true the claimant signed the settlement agreement, the settlement agreement included terms that covered more than the issues surrounding the claimant's worker's compensation claims. The Release settled of claims unrelated to physical injury. The claimant was paid to quit work, drop her non-injury-related law suits, and settle her worker's compensations claims.

DECISION:

The representative's March 3, 2021, decision (reference 01) is affirmed. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.



Emily Drenkow Carr
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

May 26, 2021
Decision Dated and Mailed

ed/scn