

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HILDA GUZMAN
Claimant

SMITHFIELD FRESH MEATS CORP
Employer

APPEAL 21A-UI-11210-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/21/21
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Hilda Guzman, the claimant/appellant filed an appeal from the April 20, 2021, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 8, 2021. Ms. Guzman participated and testified through a CTS Spanish interpreter. The employer participated through Becky Jacobsen, human resources manager.

ISSUE:

Did Ms. Guzman voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Guzman began working for the employer on February 17, 2015. She worked as a full-time production worker. Her employment ended on March 19, 2021.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. Ms. Guzman tested positive for COVID-19 on May 2, 2020. Ms. Guzman's doctor advised her self-quarantine and Ms. Guzman did so. Ms. Guzman gave the employer her doctor's note. Ms. Guzman continued to experience COVID-19 symptoms. Ms. Guzman's doctor advised her to stop working. She gave the employer her doctor's note and went on short-term disability.

In February 2021, the employer sent Ms. Guzman a letter telling her that her short-term disability benefits would end on March 18, 2021. Ms. Guzman understood the letter to mean that she had to return to work on March 19, 2021 or else she would no longer have a job. Ms. Guzman's doctor had not released her to return to work by March 19, 2021.

On March 19, 2021, Ms. Guzman called the employer and told the employer that she was quitting due to health issues. Ms. Guzman was still experiencing COVID-19 symptoms. She had to use an inhaler three times a day and used a breathing machine at night. Ms. Guzman's

job required her to use her physical strength. Ms. Guzman also quit because she could no longer do the job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Guzman's separation from employment was without good cause attributable to the employer.

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.

Iowa Admin. Code r. 871-24.25 provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- a. Obtain the advice of a licensed and practicing physician;
- b. Obtain certification of release for work from a licensed and practicing physician;
- c. Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- d. Fully recover so that the claimant could perform all of the duties of the job.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

“Good cause” for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

In this case, Ms. Guzman resigned because she continued to experience COVID-19 symptoms, her doctor had not released her to return to work and she could not do the job any more. Given that English is not Ms. Guzman’s primary language, it is understandable that Ms. Guzman thought she had to quit after the employer’s February 2021 letter. Unfortunately, Ms. Guzman was mistaken. Ms. Guzman quit for health reasons since her doctor had not released her to return to work. This is not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The April 20, 2021, (reference 01) unemployment insurance decision is affirmed. Ms. Guzman voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



Daniel Zeno
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

July 20, 2021
Decision Dated and Mailed

dz/mh