

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROLANDO AGUILAR
Claimant

APPEAL NO. 12A-UI-05776-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

OC: 04/22/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated May 10, 2012, reference 01, which held that the claimant was not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 14, 2012. The claimant participated. The employer participated by Alejandra Rojas, human resources specialist. The record consists of the testimony of Rolando Aguilar and the testimony of Alejandra Rojas. Ike Rocha served as Spanish interpreter for the claimant.

ISSUE:

Whether the claimant voluntarily quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a food processing company. The claimant worked at the employer's facility in Mount Pleasant, Iowa. He was hired on July 25, 2011. He was a full-time "decaser." His last day of work was February 14, 2012. On February 14, 2012, the claimant informed the employer that he could not keep working and was quitting his job. The claimant was having some health problems that were not work-related. Work was available for the claimant had he elected to keep working.

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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 issue in this case is whether the claimant quit his job or was terminated by the employer. The greater weight of the credible evidence in this case is that it was the claimant who initiated the separation of employment. He came to Alejandra Rojas and told her that he could no longer keep working because of his personal illness. The claimant testified that Ms. Rojas terminated him. This testimony is rejected because Ms. Rojas did not have the authority to terminate the claimant. Had the claimant been terminated for attendance points, he would have met with the human resources director and would have signed a paper to that effect. The administrative law judge concludes that the claimant quit his job without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's decision dated May 10, 2012, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw