

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUAN E VEGA MARTINEZ
Claimant

APPEAL NO. 14A-UI-11868-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SMITHFIELD FARMLAND CORP
Employer

OC: 10/26/14
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Juan Vega Martinez filed a timely appeal from the November 14, 2014, reference 01, decision that disqualified him for benefits and that relieved the employer of liability for benefits; based on an Agency conclusion that he had voluntarily quit on August 1, 2014 without good cause attributable to the employer by becoming incarcerated. After due notice was issued, a hearing was held on December 8, 2014. Mr. Vega Martinez participated. Shannon Anthofer, Human Resources Manager, represented the employer. Spanish-English interpreter Ike Rocha assisted with the hearing.

ISSUE:

Whether Mr. Vega Martinez separated from the employment for a reason that disqualifies him for unemployment insurance benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Juan Vega Martinez was employed by Smithfield Farmland Corporation as a full-time machine operator from 2014 and last performed work for the employer on August 1, 2014. On that day Mr. Vega Martinez was arrested on an outstanding criminal warrant. Mr. Vega Martinez was initially held in custody in Carroll County jail for 13 days. Mr. Vega Martinez was then transported to Puerto Rico. Mr. Vega Martinez remained in custody in Puerto Rico until October 2014. Mr. Vega Martinez then returned to Iowa. After Mr. Vega Martinez did not appear for shifts that followed his October 1, 2014 arrest; the employer concluded that Mr. Vega Martinez had voluntarily quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(16) 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:

- (16) The claimant is deemed to have left if such claimant becomes incarcerated.

The evidence in the record indicates that Mr. Vega Martinez separated from the employment by become incarcerated for a period of at least two months. Under the administrative rule, the administrative law judge must conclude that Mr. Vega Martinez voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Vega Martinez 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.

DECISION:

The November 14, 2014, 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 a 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

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