

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA C PALMA
Claimant

APPEAL NO. 10A-UI-05232-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

OC: 02/14/10
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated March 30, 2010, reference 01, which held claimant not eligible to receive unemployment insurance benefits finding that she left employment voluntarily on January 29, 2010 without good cause attributable to the employer. After due notice, a telephone conference hearing was scheduled for and held on June 29, 2010. The claimant participated personally. The employer participated by Ms. Nickie Bruno, HR Generalist and Ms. Maria Bozaan, Human Resource Manager. Official Interpreter was Mr. Steve Rhodes.

ISSUE:

At issue is whether the claimant quit employment by failing to report for scheduled work for three consecutive days without notifying the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Maria Palma was employed by West Liberty Foods LLC as a full-time production worker from June 4, 2001 until January 29, 2010 when she was separated from employment for failing to report for work for three consecutive workdays and failing to notify the employer that she would be absent.

On June 7, 2009 Ms. Palma began medical leave under the Family Medical Leave Act and was off work until the expiration of her family medical leave on December 29, 2009. On December 30, 2009 the claimant met with Sarah Snyder of the company's human resource department to extend her leave of absence. West Liberty Foods provided an interpreter at the meeting to ensure that Ms. Palma understood the terms of the personal leave of absence that was being negotiated.

Ms. Palma was allowed a personal leave of absence from December 30, 2009 until January 26, 2010 using personal time off (PTO) and personal leave granted by the company. It was specifically agreed that the leave of absence would expire on January 26, 2010 and that if the claimant required additional time away from work the claimant was to specifically contact the company's personnel department or her supervisor for permission. It was further specifically

stated that the claimant must call in each day before the beginning of her shift to report any additional absences after the leave of absence expiration. Under established company policy employees who fail to report for work for three consecutive workdays and do not provide notification are considered to have voluntarily quit their employment. This information is provided to all employees in the company handbook.

When Ms. Palma did not report for scheduled work on January 27, 28 or 29, 2010 and failed to provide the required notification to the employer, the claimant was considered to have voluntarily relinquished her position with the company.

It is the claimant's position that she did not report back to work as she had not been fully released by her physician.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left employment 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.

871 IAC 24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer's policy the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The representative's decision dated March 30, 2010, reference 01, is affirmed. The claimant voluntarily left employment without cause attributable to the employer. Benefits are withheld until such time as Maria Palma has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided that she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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