

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTONIO M PANTOJA**

Claimant

**APPEAL NO: 10A-UI-11723-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**

Employer

**OC: 06/13/10**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntarily Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's August 12, 2010 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had voluntarily quit his employment for reasons that do not qualify him to receive benefits. A hearing was initially held on October 6, 2010. Neither party participated in this hearing.

After the claimant called the next day and explained why he had not been available for the October 6 hearing, this matter was reopened. Another hearing was held on November 2, 2010. The claimant and Elaina Reader, the employer's human resource manager, appeared at this hearing. Steven Rhodes interpreted the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer on June 29, 2009. In March 2010, the claimant asked the employer if he could have a month off from work. The employer understood the claimant wanted to go to Mexico to see his family because he had been away from his family for 18 months. The employer informed the claimant he could have a week off from work, but not a month. After the employer denied his request for a month off from work, the claimant resigned. The claimant's last day of work was March 12, 2010.

Since the claimant had not worked a year for the employer, he was not eligible for a leave under the family medical leave act. Even though it would not have made a difference, the employer did not understand that the claimant wanted time off to visit his daughter who was ill. She was sick, but was at her home in Mexico.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code section 96.5-1. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code section 96.6-2.

The law presumes a claimant voluntarily quits without good cause if he is absent more than ten days for compelling personal reasons. 871 IAC 24.25(20).

The facts establish the claimant decided to quit after the employer would grant him a week off from work, but not a month as he had requested. The claimant established compelling personal reasons for quitting when he was not granted a month off from work. The claimant's compelling personal reasons – visiting his daughter and family- do not, however, qualify him to receive benefits. As of June 13, 2010, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's August 12, 2010 determination (reference 02) is affirmed. The claimant voluntarily quit his employment for compelling personal reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 13, 2010. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs