

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FERNANDO CAMACHO
Claimant

APPEAL NO. 17A-UI-02394-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVENTURE LANDS OF AMERICA INC
Employer

OC: 02/05/17
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Fernando Camacho filed a timely appeal from the February 27, 2017, reference 01, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on the claims deputy's conclusion that Mr. Camacho had voluntarily quit on January 25, 2017 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 27, 2017. Mr. Camacho participated. Justin Bisom represented the employer. Exhibit 1 was received into evidence.

ISSUES:

Whether Mr. Camacho's voluntary quit was for good cause attributable to the employer.

Whether Mr. Camacho's voluntary quit was for a reason that does not disqualify him for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Fernando Camacho was employed by Adventure Lands of America, Inc., d/b/a Adventureland Inn, as a full-time maintenance technician from 2015 until January 25, 2017, when he voluntarily quit to relocate to California. Mr. Camacho's supervisors were Harlan Wilson, Operations Manager, and Justin Bisom, Assistant General Manager. During the employment, Mr. Camacho resided in the Des Moines area. Mr. Camacho's parents were in California. Mr. Camacho has children in California and in Iowa.

In August 2016, Mr. Camacho notified the employer that he would be leaving the employment at the end of November 2016 to return to California. Mr. Camacho's mother was in poor health and was not expected to live much longer. At the time Mr. Camacho provided notice to the employer that he would be leaving at the end of November, he did so because he desired to spend time with his ailing mother. Mr. Camacho was aware that the employer would need to hire someone to replace him.

In November 2016, Mr. Camacho notified the employer that he would instead be leaving during the week of Christmas. The employer had not yet hired a replacement and allowed Mr. Camacho to extend his effective quit date.

Mr. Camacho subsequently again extended his effective quit date a couple more times. Mr. Camacho provided the employer with an effective quit date of January 25, 2017. Before that date, the employer hired someone to replace Mr. Camacho. The employer advised Mr. Camacho that the employer would not acquiesce in any additional extensions of the effective quit date. Had Mr. Camacho not given notice of his quit, the employer would have continued to had work for him and would not have hired a replacement.

Between the quit notice that Mr. Camacho initially provided in August 2016 and his last day on January 25, 2017, the basis for Mr. Camacho's quit changed. Mr. Camacho's mother passed away on December 26, 2016. When Mr. Camacho left the employment on January 25, 2017, he left so that he could relocate to California to provide financial support to his father. Mr. Camacho's father is 70-years-old, is retired, is not financially stable, and has ongoing health and injury issues. Mr. Camacho desired to assist his father in paying his father's mortgage. Before Mr. Camacho moved to California, his father had injured his hand in a fall, but had substantially recovered from that injury by the time Mr. Camacho arrived. Mr. Camacho's father has previously undergone knee surgery, but is in need of further knee surgery, which has not yet been scheduled. Mr. Camacho also wanted to be present to provide emotional support to his father after the loss of Mr. Camacho's mother.

Mr. Camacho has not returned to Iowa to offer to return to the employment. Instead, Mr. Camacho accepted employment in California and began the new employment on March 8, 2017. Mr. Camacho was at the new employment at the time of the appeal hearing.

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.

Iowa Admin. Code r. 871-24.25(2) 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:

(2) The claimant moved to a different locality.

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 evidence in the record provides compelling and laudable personal reasons for Mr. Camacho's decision to voluntarily leave the employment. However, the evidence in the record establishes a voluntary quit on January 25, 2017 and that was *without good cause attributable to the employer*. Had Mr. Camacho not submitted his resignation, the employer would have continued to have the same work for him. Mr. Camacho left the employment to relocate to California. A quit to relocate is presumed to be without good cause attributable to the employer.

In light of Mr. Camacho raising his father's health issues as a factor in the employment, the administrative law judge must consider whether the quit was for a reason that would allow Mr. Camacho to avoid being disqualified for benefits.

Iowa Code § 96.5-1-c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

Ms. Camacho's primary purpose in wanting to be near his father was to provide financial support to his father. The health concerns were secondary. Pursuant to Mr. Camacho's testimony, his father's hand had substantially healed prior to Mr. Camacho's arrival in California. Mr. Camacho cites his father's knees, including upcoming knee surgery, as concerns, but there is little indication that Mr. Camacho's father needed active assistance from Mr. Camacho due to the knee issues. Even Mr. Camacho's father did indeed need such assistance, Mr. Camacho has returned to work and, therefore, would presumably not be the person providing such assistance. Mr. Camacho has not return to Iowa to offer to return to work. Instead, he has obtained new employment in California. For all these reasons, Mr. Camacho is not exempt from being disqualified for benefits under Iowa Code section 96.5(1).

Mr. Camacho voluntarily quit the employment on January 25, 2017 without good cause attributable to the employer. Mr. Camacho is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. Mr. Camacho must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The February 27, 2017, reference 01, decision is affirmed. The claimant voluntarily quit the employment on January 25, 2017 without good cause attributable to the employer. The

claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs