

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**SALOMON A GOMEZ**  
Claimant

**WEST LIBERTY FOODS LLC**  
Employer

**APPEAL 16A-UI-11550-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/10/16**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 5, 2016, (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 29, 2016. Claimant participated with the assistance of CTS language link interpreter Jose identification number 9507. Employer participated through Nikki Bruno, Human Resource Supervisor.

**ISSUE:**

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was hired to work full time as a POSS operator beginning on September 6, 2016, through September 6, 2016 when he voluntarily quit. The claimant was being shown the job and learned he would have to work with a machine that used dry ice. He believed that dry ice had killed one of his friends and told the employer he did not want to perform the job that involved being near dry ice. The employer was getting ready to meet with the claimant to discuss other job openings when the claimant opted to leave. The claimant, who does not speak English and could not understand what the employees were saying, thought that the supervisor and a human resources person were making fun of him based upon the expressions on their faces. The other two employees were not making fun of the claimant. The employer provides all necessary personal protective equipment for each job in the plant. The claimant was not being asked to engage in any unsafe or illegal conduct by working on a machine that utilized dry ice.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

Iowa Admin. Code r. 871-24.25(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The administrative law judge is not persuaded that the claimant was asked to work on an illegal machine or process that involved dry ice. Based on his own personal beliefs, the claimant did not want to work on a machine that utilized dry ice. His own personal beliefs about the safety of working with dry ice, do not give rise to good cause attributable to the employer for voluntarily quitting the employment. The administrative law judge is also not persuaded that the employer's representatives were making fun of the claimant. They were trying to find him another job within the plant. Under these circumstances the claimant has not met his burden of proof to establish that his quitting was with good cause attributable to the employer. While claimant's decision to quit may have been based upon good personal reasons it was not a good cause reason attributable to the employer for leaving the employment. Benefits must be denied.

**DECISION:**

The October 5, 2016, (reference 04) decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

---

Teresa K. Hillary  
Administrative Law Judge

---

Decision Dated and Mailed

tkh/rvs