

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA RODRIGUEZ
Claimant

APPEAL NO. 13A-UI-12658-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 10/13/13
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Teresa Rodriguez (claimant) appealed a representative's November 6, 2013, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Advance Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 4, 2013. The claimant participated personally through Ana Cox, Interpreter. Luisa Gonzalez, a former co-worker, testified for the claimant. The employer participated by Steve Volle, Risk Manager, and Maryna Salas, Supervisor. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 28, 2012, temporary work. The claimant signed for receipt of the employer's handbook on August 28, 2012, and September 3, 2013. The claimant was assigned to work at Mycogen Seed on September 3, 2013, as a full-time sorter. Sometimes the claimant was asked to sweep the floor and she performed that duty. On October 13, 2013, the employer asked the claimant three times to perform her job duties. The claimant told the supervisor that she would rather go home than perform the job of sweeping the floor. The supervisor asked the claimant who would pay her for her rent and food if she did not work. The claimant said she would rather go home. The employer issued the claimant a written warning for work quality, conduct and performance. The claimant refused to sign for receipt of the warning, gathered her bag, lunch, and punched out. The employer considered the claimant to have quit work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work 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(28) and (27) provide:

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:

(28) The claimant left after being reprimanded.

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

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 claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she would rather leave than work, received a reprimand, and walked off the job. When an employee quits work after having been reprimanded or rather than perform the work assigned, her leaving is without good cause attributable to the employer. The claimant left work after having been reprimanded and rather than performing the job assigned by the employer. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's November 6, 2013, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css