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

WILLIAM J GONZALEZ
Claimant

CARGILL MEAT SOLUTIONS CORP
Employer

APPEAL NO. 07A-UI-00688-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12-10-06   R: 12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 5, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 7, 2007. The claimant did participate through the interpretation of Anna Pottebaum. The employer did participate through Katie Diercks, Assistant Human Resources Manager.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a production worker full time beginning on September 25, 2005 through December 1, 2006, when he voluntarily quit to leave town to go take care of his sick brother. The claimant is still taking care of his brother in Florida but has begun working for another employer in Florida. The claimant has been gone out of the state and away from Cargill for longer than ten days. Continued work was available for him had he not quit.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.5-1-d 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:
>
> d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445 (Iowa 1993). Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

While the claimant may have had good cause reason to quit working, that is to move to Florida to care for his ill brother, his reason is not good cause attributable to the employer for leaving the employment. Benefits are denied.

DECISION:

The January 5, 2007, reference 01, 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.

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Teresa K. Hillary
Administrative Law Judge

_____
Decision Dated and Mailed

tkh/kjw