

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANGELA M NORTON
Claimant

SWIFT PORK COMPANY
Employer

APPEAL 21A-UI-19285-DH-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 07/18/21
Claimant: Appellant (2)

Iowa Code § 96.5(1) - Voluntary Quit
Iowa Code § 96.5(2)a - Discharge for Misconduct
Iowa Admin. Code r. 871-24.26(6)b - VQ - Illness, Injury; Employment Related

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 27, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on October 21, 2021. Claimant, Angela Norton, participated with her attorney, Nathaniel Boulton. Employer, Swift Pork Company, failed to respond to the hearing notice and provide a telephone number at which they could be reached for the scheduled hearing. Judicial notice was taken of the administrative file.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit 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 employed full-time on the line as a "trim grease" person. Her first day of work was January 22, 2008 and her last day worked was July 2, 2021. She was separated from employment on July 6, 2021, when she quit work with good cause attributable to the employer. Claimant also had her worker's compensation hearing on this date.

Claimant was injured on the job on December 4, 2018, while using a Denver knife when working on the ribs line, she heard a "snap" noise in her thumb and her entire arm went numb. She had surgery on to address a ruptured tendon. She was able to return to work. Over course of time, work aggravated her condition (from her original work injury) and she had a number of surgeries and returned to work. Her most recent surgery was in early 2020, possibly January. Claimant was released to return to work sometime in May of 2020, but with permanent restrictions. Claimant continued to have pain and be unsuccessful in keeping up with the pace that the line moved.

Meanwhile, her workers compensation case was proceeding. The parties had discussions regarding reasonable accommodations and how claimant would separate from employment if she is unable to do her job. The parties reached a resolution on her employment, determining that given her health status due to her work related injury and the permanent restrictions, that the employer did not have any work for her to perform with or without reasonable accommodation and therefore the separation would be called a "layoff" for lack of work.

Regardless of what the parties call it, it factually fits a voluntary quit with good cause. Claimant was injured at work. Injury was aggravated by work. A worker's compensation claim was filed. The parties were discussing whether there were accommodations and then claimant's separation (whether claimant would quit, be discharged or laid off). There was no comparable work that was not injuries to claimant's health. Claimant was separated from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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 Admin. Code r. 871-24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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).

Claimant's leaving was for a good-cause reason attributable to the employer according to Iowa law.

DECISION:

The August 27, 2021, (reference 01) unemployment insurance decision is **REVERSED**. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Darrin T. Hamilton
Administrative Law Judge

November 02, 2021
Decision Dated and Mailed

dh/ol