

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DELANO E NORMAN
Claimant

APPEAL NO. 13A-UI-00503-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 12/09/12
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Delano Norman (claimant) appealed a representative's January 9, 2013 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Tyson Fresh Meats (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 14, 2013. The claimant participated personally. The employer participated by Maria Villapando, Human Resources Manager.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

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 July 29, 2008, as a full-time trimmer. The claimant was promised at least 30 hours per week. The claimant's daughter became ill with leukemia. The family made a decision to move to El Paso, Texas, on November 7, 2012. The claimant remained behind. The claimant averaged 31.82 hours per week at work. On December 7, 2012, the claimant told the employer he was quitting to move to El Paso, Texas. The claimant did not think he was working enough hours and wanted to be close to his family while his daughter was going through health issues. The claimant at all times was able and available for 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(2), (18) and (22) 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:

(2) The claimant moved to a different locality.

(18) The claimant left because of a dislike of the shift worked.

20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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 his actions. When an employee is absent from work for more than ten working days for compelling personal reasons, His leaving is without good cause attributable to the employer. Likewise when an employee quits work because he is dissatisfied with his hours or moves to another locality, his leaving is without good cause attributable to the employer. The claimant left work for more than ten working days for compelling personal reasons, he wanted to work more hours, and he moved to Texas. His 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 January 9, 2013 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css