

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RAMON E JACIUNDE
Claimant

LA CASA SALSA INC
Employer

APPEAL NO. 17A-UI-11320-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/08/17
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated October 31, 2017, reference 03, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 27, 2017. Claimant participated. Employer participated by Anna Livingston. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 28, 2017. On September 28, 2017 claimant submitted a letter to employer stating, "Don't schedule me until my pay is corrected." (Cl. Ex. A). Employer did not schedule claimant to work after that date.

Claimant stated that he was upset when he wrote the letter and he believed he deserved more pay than he was receiving. He stated that he did not quit, although he was upset with his pay, feeling it was not commensurate with his duties at work. Claimant was hired to be a part-time dishwasher, but he argued he also did a lot of prep work, and deserved a higher level of pay.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Employer stated that she was not going to change claimant's rate of pay. As she wasn't changing claimant's pay as he'd demanded in the note, employer did not schedule claimant any more. This amounts to employer accepting claimant's quit. The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he wasn't happy with pay and deductions from his check for food. Claimant issued an ultimatum to employer, but stated that he had not intended to quit because of the wages problem. Unfortunately for claimant, employer reasonably took claimant's letter as a conditional quit. Employer refused to satisfy claimant's conditions, and therefore accepted his quit.

DECISION:

The decision of the representative dated October 31, 2017, reference 03, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn