

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PETRA RAMOS

Claimant

APPEAL NO. 12A-UI-01734-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

OC: 01/08/12

Claimant: Appellant (5)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Petra Ramos filed a timely appeal from the February 16, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 8, 2012. Ms. Ramos participated personally and was represented by attorney Gary Nelson. Spanish-English Interpreter Nina Redmond assisted with the hearing. Prior to the hearing, the employer submitted written notice that it was waiving its presence at the hearing.

ISSUE:

Whether Ms. Ramos separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Petra Ramos was employed by Tyson Fresh Meats, Inc., as a full-time production worker from 2005 until November 7, 2011, when she voluntarily quit as a term of a workers' compensation settlement agreement. Ms. Ramos had suffered multiple workplace injuries during the period of her employment. Ms. Ramos last performed work for the employer on Friday, November 4, 2011. At that time, Ms. Ramos had been released to return to work without restrictions and had been performing her regular duties.

On November 7, 2011, Ms. Ramos, with the assistance of legal counsel, entered into an agreement with the employer to settle her workers' compensation claims. In exchange for Ms. Ramos' voluntary resignation, agreement not to seek further employment with the employer, and release of the employer from liability, the employer agreed to pay her an amount of money and further agreed not to contest her claim for unemployment insurance. Ms. Ramos elected to enter into the agreement and separate from the employment rather than continue in the employment and further pursue her workers' compensation claim.

REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

While there is no Iowa case law on point, other states have addressed the situation of a voluntary quit in the context of a Worker's Compensation settlement. In Edward v. Sentinel Management Co., 611 N.W.2d 366 (Minn. App. 2000), the claimant resigned as part of a workers' comp settlement package. The Minnesota court denied benefits, noting that the claimant could have continued working while pursuing his claim. The evidence in the case established that the claimant could still perform his work and was doing so while the negotiations continued. The court found the situation analogous to a person negotiating for early retirement while work was still available. In Larson v. Michigan Employment Sec. Com'n, 140 N.W.2d 777 (Michigan App. 1966), the Michigan court allowed benefits to a severely injured worker who could not perform his former duties and for whom the alternatives were remaining employed with no income or resigning in order to receive income. Iowa administrative law judges follow these lines of analysis and make similar distinctions.

Iowa Code section 96.15(1) makes clear that *claimants* cannot waive or negotiate away their rights to unemployment insurance benefits. While that Code section is silent with regard to whether *employers* may negotiate away their rights to challenge unemployment insurance claims, nothing in Iowa Code Chapter 96 suggests that such an agreement can or should bind Iowa Workforce Development. Iowa Code section 96.6 provides the process for adjudicating unemployment insurance claims. Nothing in that statute supports settlement of unemployment insurance claims by agreement between the parties. Any provision in a settlement agreement between the parties that purports to bind the Agency's adjudication of an unemployment insurance claim is voided by Iowa Code section 96.6.

The evidence in the record establishes that Ms. Ramos continued to be able to perform work for the employer, but voluntarily quit as part of the workers' compensation settlement. Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Ramos voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Ramos is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Ramos.

DECISION:

The Agency representative's February 16, 2012, reference 01, decision is modified as follows. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in a been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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