

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KRISTIN L BURK
Claimant

HORMEL FOODS CORPORATION
Employer

APPEAL 16A-UI-06408-NM-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/15/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 6, 2016 (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on July 11, 2016. The claimant, Kristin Burk, participated and testified. The employer, Hormel Foods Corporation, participated through hearing representative Diana Perry-Lehr, human resource manager Roberto Luna, and human resource clerk Auroa Rodriguez.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a production supervisor from January 11, 1999 until this employment ended on May 12, 2016, when she voluntarily quit.

On May 9, 2016, claimant was called into a meeting with several members of management and Luna. Claimant was accused of falsifying documentation by placing an operator's initials on official paperwork in order to speed the paperwork along. Claimant admitted to what she had done and was told she would be asked to sign a last chance agreement.

On May 12, 2016, claimant went to Luna's office to ask him if the agreement was ready for her to sign. Luna stated it was not, as the agreement was with another member of management who was not there that day. At some point, claimant determined she would not sign the last chance agreement, as she feared doing so may lead to a future reduction in pay and impede her ability to advance in the company. Claimant had not been given any details on either of these things by members of management. Claimant informed Luna she did not want to sign the agreement. Claimant then left. Claimant also assumed if she did not sign the last chance

agreement she would be terminated, even though no member of management told her this was the case. Based on these assumptions claimant gathered her things and went back to Luna's office. Luna was in a meeting so claimant spoke with Rodriguez. Claimant handed Rodriguez her badge and keys and told her she was leaving. Rodriguez sent Luna a message that claimant was there to see him but she left before he could speak to her. Claimant did not return to work after that date. Luna testified that had claimant not left, work would have continued to be available to her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not discharged but voluntarily left the employment without good cause attributable to employer.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Code §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.

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 has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2) (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. *LaGrange v. Iowa Dep't of Job Serv.*, (No. 4-209/83-1081, Iowa Ct. App. filed June 26, 1984).

Here, claimant left and failed to return to work. Claimant's actions were based on her belief that she was going to be discharged because she did not want to sign the last chance agreement. This belief was based on claimant's assumptions, not any information given to her by Luna or any member of management. Luna provided credible testimony that had claimant not resigned work would have continued to be available to her. Since claimant did not follow up with management personnel or Luna, and her assumption of inevitably being terminated was erroneous, the decision to leave work and failure to continue reporting to work was an abandonment of the job. Benefits are denied.

DECISION:

The June 6, 2016 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to employer. Benefits are withheld, until such time as she is otherwise eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/can