

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JO A BIGGLES

Claimant

APPEAL NO. 14A-UI-04101-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

OC: 03/23/14

Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Jo Biggles (claimant) appealed a representative's April 9, 2014, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she 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 May 6, 2014. The claimant was represented by Corey Luedeman, Attorney at Law, and participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The claimant offered and Exhibits A, B, C, D, E, F, and G were received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 September 25, 1995, and at the end of her employment she was working as a full-time production worker. The claimant suffered her first work-related injury in 1995, and started receiving workers' compensation payments in June 2013. On March 21, 2014, the claimant and employer signed a settlement agreement. Due to the claimant's separation from employment on March 21, 2014, the claimant received a payment of \$235,000.00 in undefined workers' compensation benefits. The claimant agreed to resign from employment. The claimant testified she could have continued to work with difficulty had she not signed the settlement agreement and resigned.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer. For the following reasons the administrative law judge concludes she did.

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.

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.

In Edward v. Sentinal Management Company, 611 NW2d 366 (Minn. App. 2000) the Minnesota Court of Appeals concluded that claimant who resigned as a part of a workers' comp settlement package left employment voluntarily without good cause attributable to the employer because he had the option of remaining as an employee while pursuing his workers' compensation claim. The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she was leaving and quit work. 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). When an employee gives notice of an intent to quit and the employer accepts the employee's resignation, her leaving is without good cause attributable to the employer. The claimant told the employer she was quitting and signed the settlement agreement. The employer accepted the claimant's resignation. Her 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 April 9, 2014, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs