

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIA ANGUIANO
Claimant

APPEAL 18R-UI-05786-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

**OC: 02/25/18
Claimant: Appellant (2)**

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 March 16, 2018, (reference 01) unemployment insurance decision that denied benefits based on her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on June 12, 2018. The claimant participated and testified with the assistance of a Spanish language interpreter. The employer did not participate.

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 line worker from December 30, 2009, until this employment ended on October 11, 2017.

On July 14, 2017, claimant requested a leave of absence to go take care of her sick father in Mexico. The employer approved a one month leave. At the end of the month claimant's father was still not well and required her assistance. Claimant requested an additional two months of leave, which was granted. By early October 2017 claimant's father was well enough for her to return to the United States. Claimant arrived home on October 10, 2017 and went in to the employer the following day to discuss returning to work. When claimant arrived to speak with the employer of October 11, she was told she had been separated from employment. Claimant was not seeking and did not accept other employment while she was on leave.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code section 96.5(1)c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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).

Claimant left employment to go to Mexico to care for her sick father. Once claimant's father was well enough for her to return to the United States, claimant attempted to return to work. When claimant attempted to return, she was told no work was available, as she had been separated from employment. Claimant did not accept other employment while she was on leave. Accordingly, while claimant voluntarily left her employment, benefits are allowed, provided she is otherwise eligible.

DECISION:

The March 16, 2018, reference 01, unemployment insurance decision is reversed. The claimant voluntarily left her employment to care for an immediate family member who was injured or ill and, upon his recovery, immediately returned to the employer to offer services but work was not available. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs