

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

IRMA PADRON
Claimant

APPEAL NO. 13A-UI-12728-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

OC: 10/27/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated November 15, 2013, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on December 6, 2013, by telephone conference call. The claimant participated personally. The employer participated by Lance Gesell, Plant Manager, and Justin Purcell, Assistant Plant Manager. The record consists of the testimony of Irma Padron and the testimony of Lance Gesell. Rafael Geronimo served as Spanish interpreter for the claimant.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer manufactures pre-hung doors. The claimant was hired on April 18, 2013. When she was hired, she lived in Bellevue, Nebraska, which is approximately 50 miles away, one way. On June 1, 2013, the claimant moved to Omaha, Nebraska, which is approximately 63 miles away, one way. The claimant gave her employer intent of her notice to quit on June 16, 2013. The effective date of her resignation was June 28, 2013. The claimant quit her job because of the distance she had to travel to work.

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.

871 IAC 24.25(30) 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The claimant is not eligible for unemployment insurance benefits. The claimant quit her job because of the commuting distance from her residence to her place of employment. Iowa law clearly states that if an individual quits because of the commuting distance and he or she was aware of the distance when hired, the quit is without good cause attributable to the employer. The claimant was aware of the commuting distance when hired. Transportation to and from work is a personal responsibility. The employer offered the claimant a switch to another shift so that she could take a bus to work but the claimant declined. The administrative law judge concludes that the claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's decision dated November 15, 2013, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefits amount, provided she is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css