

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AIDA M PENA DE LA CRUZ
Claimant

CARLSON BUILDING MAINTENANCE INC
Employer

APPEAL 18A-UI-07057-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/03/18
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(2) – Quit to Move to Another Locality

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 25, 2018, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment to move. The parties were properly notified of the hearing. A telephone hearing was held on July 19, 2018. The claimant, Aida M. Pena de la Cruz, participated. Spanish/English interpreter Teo (ID number 6613) of CTS Language Link assisted with the hearing.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as a cleaner, from approximately July 2017 until May 13, 2018, when she quit. Claimant explained that she owns a house in San Sebastian, Puerto Rico. This house was destroyed by a hurricane. When claimant went to Puerto Rico and saw that her home was destroyed, she quit her job so she could move back to Puerto Rico and rebuild her house. Continued work was available, had claimant not quit.

REASONING AND CONCLUSIONS OF LAW:

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

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 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: ...

(2) The claimant moved to a different locality.

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). Here, the administrative law judge understands that claimant quit in order to rebuild her home. This is certainly understandable; however, it is not a reason that is fairly attributable to her employer. 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 quit her employment in order to rebuild her home in Puerto Rico. Claimant's decision to separate from employment was without good cause attributable to the employer. Benefits are withheld.

DECISION:

The June 25, 2018, (reference 01) unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn