

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAURA A FLORES DE VILLALPANDO
Claimant

APPEAL 21A-UI-16857-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SMITHFIELD PACKAGED MEATS CORP
Employer

**OC: 05/02/21
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

On August 1, 2021, Laura Flores de Villalpando (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated July 23, 2021 (reference 03) that disqualified claimant from receiving unemployment insurance benefits based on a finding claimant voluntarily quit on April 18, 2021 for personal reasons.

A telephone hearing was held on September 23, 2021. The parties were properly notified of the hearing. The claimant participated personally and with the assistance of a Spanish interpreter. Smithfield Packaged Meats Corp. (employer/respondent) participated by HR Manager Bobbi Bures.

Employer's Exhibits 1-4 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer full-time as a production lead. Claimant's first day of employment was July 27, 1999. The last day claimant worked on the job was September 30, 2020. Claimant requested and was granted a leave of absence due to the pandemic at that time. Her leave ended and she was scheduled to return to work on April 5, 2021. She did not request further leave at that time. She chose not to return at that time because her son has health issues that require her to care for him and she did not believe employer would grant her leave in the future to do so. Claimant did not tell employer she was quitting for these reasons. She simply failed to appear for work on April 5, 2021 or thereafter. She has not attempted to return to work there since.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated July 23, 2021 (reference 03) that disqualified claimant from receiving unemployment insurance benefits based on a finding claimant voluntarily quit on April 18, 2021 for personal reasons is AFFIRMED.

Iowa Code section 96.5(1) 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.

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.

Iowa Admin. Code r. 871-24.25 provides in relevant part:

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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

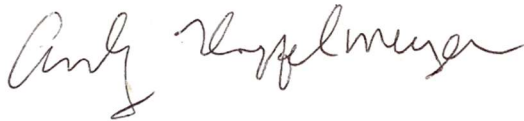
Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment

relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried her burden of proving the voluntary leaving was for good cause attributable to employer. Claimant resigned to care for her son. While the administrative law judge is sympathetic to this reason, this is not a good cause reason for resigning attributable to employer. Claimant's belief that employer would not allow her leave in the future to care for her son is not a good cause reason for resigning, either, particularly where claimant did not notify employer that she was resigning for this reason and allow employer a chance to address her concern. Benefits must therefore be denied.

DECISION:

The decision dated July 23, 2021 (reference 03) that disqualified claimant from receiving unemployment insurance benefits based on a finding claimant voluntarily quit on April 18, 2021 for personal reasons is AFFIRMED. Claimant's separation from employment was disqualifying. Benefits must be denied, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

September 28, 2021
Decision Dated and Mailed

abd/kmj

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.