

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KERRY M KISLING
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL 18A-UI-04662-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/18/18
Claimant: Appellant (5)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the April 10, 2018 (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on May 9, 2018. The claimant participated personally. The employer, Tyson Fresh Meats, Inc., did not participate.

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 as a production worker since May 1, 2006. Her employment ended when she voluntarily quit on February 7, 2018.

Several years ago, claimant's husband had four strokes that led to him having memory and mobility issues that required another person to care for him full-time. Claimant's daughter cared for him full-time until she accepted a new job in February of 2018. Claimant's husband did not want a stranger staying home with him so claimant decided to stay home with him and care for him full-time.

Claimant called her employer on February 7, 2018 and left a voicemail message that she would not be returning to her job because she needed to care for her husband. Claimant's husband has not fully recovered from his medical conditions and he continues to require claimant's full-time care.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

Iowa Code § 96.5(1)c provides:

Causes for disqualification. 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.

In this case, claimant tendered her verbal resignation when she left a voicemail message on February 7, 2018 stating she was not going to be returning to work in order to care for her husband. Claimant's husband has not sufficiently recovered to the point where he does not need the claimant's full-time care. As such, claimant has not met the requirements of Iowa Code § 96.5(1)c. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The April 10, 2018 (reference 01) unemployment insurance decision is modified with no change in effect. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits are denied until claimant has worked in and earned wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs