

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSE J LOPEZ
Claimant

APPEAL NO. 07A-UI-10769-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**OC: 10-14-07 R: 03
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 16, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 10, 2007. The claimant did participate through the interpretation of Oliver Koch. The employer did not participate.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a production worker, full-time, beginning November 28, 2006, through October 2, 2007, when he voluntarily quit.

The claimant left work to go see his ill daughter in Mexico. The claimant asked for one week off work from the employer but was denied permission to leave. The claimant participated in the fact-finding interview and indicated at the interview that he was in Mexico from October 4 through October 16, when he returned to the state. When the claimant returned from Mexico, he went to the employer and asked for his job back but was denied rehire. The claimant was gone for a good personal reason for a time period exceeding ten days.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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(20) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

The claimant left work without permission to visit his ill daughter in Mexico. While the claimant certainly had a good reason to be with his daughter, his absence from the workplace exceed ten days and was not a good-cause reason attributable to the employer for leaving the employment. Benefits are denied.

DECISION:

The November 16, 2007, reference 01, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw