

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**IDA K KEEVER**  
Claimant

**APPEAL NO. 19A-UI-05037-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BAKER'S PRIDE INC**  
Employer

**OC: 05/26/19**  
**Claimant: Appellant (4)**

Iowa Code Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

**STATEMENT OF THE CASE:**

Ida Keever filed a timely appeal from the June 14, 2019, reference 02, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. Keever voluntarily quit on April 16, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on July 18, 2019. Ms. Keever participated. Wanda Carmichael represented the employer and presented additional testimony through Laurey Gray. Exhibits 1 through 6 were received into evidence.

**ISSUES:**

Whether Ms. Keever voluntarily quit the employment without good cause attributable to the employer.

Whether Ms. Keever voluntarily quit to accept other employment.

Whether Ms. Keever was discharged for misconduct in connection with the employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Ida Keever was employed by Baker's Pride, Inc. as a full-time production worker from October 2018 and last performed work for the employer on April 11, 2019. Ms. Keever was thereafter absent from work without notifying the employer on April 12 and 16, 2019. Ms. Keever had been seeking other employment. At the time of the April 12, 2019 absence, Ms. Keever had accepted a conditional offer of employment with a different employer. The offer was conditioned on Ms. Keever taking and passing a pre-employment drug test. As of April 16, 2019, Ms. Keever had completed the drug test and had accepted the other employment. On April 16, 2019, the employer called Ms. Keever to discuss her absence from the employment. At that time, Ms. Keever told the employer had accepted other employment that paid better. After Ms. Keever shared that she was leaving the employment, the employer stated that the employer was ending Ms. Keever's employment due to the two no-call/no-show absences.

## REASONING AND CONCLUSIONS OF LAW:

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. Iowa Administrative Code rule 871-24.1(113)(c). A quit is a separation initiated by the employee. Iowa Administrative Code rule 871-24.1(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 Iowa Administrative Code rule 871-24.25.

Iowa Code section 96.5(1)(a) provides as follows:

Causes for disqualification.

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. But the individual shall not be disqualified if the department finds that:
  - a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

- (5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

The evidence establishes that Ms. Keever voluntarily quit on April 16, 2019 without good cause attributable to the employer for the sole basis of accepting other, better employment. Ms. Keever had already accepted the new employment and had already told the employer representative she was leaving the Baker's Pride employment at the time the employer representative stated that the employer was ending the employment. Ms. Keever's voluntary quit was without good cause attributable to Baker's Pride. That employer's account shall not be charged for benefits. Because the quit was to accept other, better employment, the quit from Baker's Pride did not disqualify Ms. Keever for unemployment insurance benefits. Ms. Keever is eligible for benefits, provided she meets all other eligibility requirements.

**DECISION:**

The June 14, 2019, reference 02, decision is modified as follows. The claimant voluntarily quit the employment on April 16, 2019 without good cause attributable to the employer. The claimant quit to accept other, better employment. The claimant is eligible for benefits, provided she meets all other eligibility requirements. The employer's account shall not be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs