

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIA DUARTE
Claimant

SWIFT PORK COMPANY
Employer

APPEAL 18A-UI-04491-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/25/18
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 11, 2018, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on May 4, 2018. The claimant, Maria Duarte, participated. The employer, Swift Pork Company, registered a participant who was not available when called for the hearing. Spanish/English interpreter Theo (ID number 6613) from CT 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 production employee, from July 10, 2001, until September 5, 2017, when she quit. Claimant had several work-related health concerns during her employment. She returned to work in January 2017, after some issues with her back and spine. She also had issues at some point during her employment that caused her to return with work restrictions. It appears the employer accommodated claimant at this time. In August 2017, claimant developed an allergy to something in her work environment. Claimant told the employer about this in August, after she decided to quit her job because of the allergy. No one told her that she needed to quit her job due to the allergy.

REASONING AND CONCLUSIONS OF LAW:

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

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. 871-24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

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).

In this case, the record shows that claimant exercised a voluntary choice to terminate her employment with the employer. Claimant testified that she chose to quit because of an allergy aggravated by her workplace. Assuming claimant could establish that her medical condition is work-related, claimant has not shown that her condition required her to quit and she has not shown that she told the employer she would quit if the problem was not corrected. Claimant has not met her burden of proof showing she quit with good cause attributable to her former employer. Benefits are withheld.

DECISION:

The April 11, 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