

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANDREA M TINDER
Claimant

APPEAL NO. 21A-UI-05508-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CONAGRA FOODS PACKAGED FOODS
LLC**
Employer

OC: 12/06/20
Claimant: Appellant (4)

Iowa Code Section 96.5(1)(a) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 16, 2021, reference 01, decision that disqualified the claimant for benefits and that stated the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant voluntarily quit on November 19, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on April 26, 2021. The claimant participated. Sarah Yaley represented the employer. Exhibit A was received into evidence.

ISSUES:

Whether the claimant's voluntary quit was for good cause attributable to the employer.
Whether the claimant voluntarily quit for the sole purpose of accepting other employment and performed work for the new employer

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed by ConAgra Foods Packaged Foods, L.L.C. as a full-time production technician from 1996 until November 19, 2020, when she voluntarily quit to accept other employment in Cedar Rapids. Until August 2020, the claimant resided in Keokuk. The workplace was in Montrose, Iowa. In August 2020, the claimant relocated to Cedar Rapids to be near her children and grandchildren. The claimant thereafter commuted to the ConAgra employment. On November 3, 2020, the claimant accepted an offer of full-time employment with Cole's Quality Foods, Inc. The Cole's employment offered roughly the same work hours, a lower wage, but a much shorter commute. The claimant provided a two-week notice to ConAgra and then voluntarily separated from ConAgra effective November 19, 2020. The claimant began her new employment with Cole's on or about November 23, 2020. At the time the claimant separated from the ConAgra employment, the employer continued to have ongoing work for the claimant. The claimant considered a long-term personality conflict with a ConAgra coworker when electing to leave the ConAgra employment.

REASONING AND CONCLUSIONS OF LAW:

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.

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 871 IAC 24.25.

The evidence in the record establishes that the claimant voluntarily quit the ConAgra employment effective November 19, 2020 for the purpose of accepting other employment and performed work for the new employer. The quit from ConAgra to accept the other employment did not disqualify the claimant for unemployment insurance benefits. The claimant is eligible for benefits, provided the claimant is otherwise eligible. The employer's account may be charged for benefits. Because the voluntarily quit was without good cause attributable to ConAgra, that employer's account shall not be charged for benefits. The wage credits associated with the ConAgra employment shall instead be assessed against the unemployment compensation fund.

DECISION:

The February 16, 2021, reference 01, decision is modified in favor of the claimant/appellant. The claimant voluntarily quit the employment effective November 19, 2020 without good cause attributable to the employer, but for the sole purpose of accepting other employment. The employer's account shall not be charged. The claimant is eligible for benefits, provided the claimant is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.



James E. Timberland
Administrative Law Judge

April 29, 2021
Decision Dated and Mailed

jet/kmj