

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JESUS JAIME
Claimant

CARGILL MEAT SOLUTIONS CORP
Employer

APPEAL 15A-UI-02084-KCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/25/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 6, 2015 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 17, 2015. The claimant participated. The employer participated through Martha Gutierrez, representative and human resources associate.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a cut forklift operator and was separated from employment on November 6, 2014. The claimant last worked on October 16, 2014. He was scheduled to work after October 16, 2014. He did not return to work thereafter or call his employer to report his absence.

The claimant had received warnings about his attendance in September and October 2014. He understood that if he had more unexcused absences, which resulted in accrual of more attendance points under the employer's policy, his employment would end. The claimant thought that he could not maintain perfect attendance for one year, as required by the employer's attendance policy, in order to retain his position.

The claimant did not report to work, as scheduled, on October 17, 2014. On October 18, 2014, he left Iowa and moved to California to be with his family. He did not inform his employer of his intention to miss work or to move out of state.

REASONING AND CONCLUSIONS OF LAW:

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

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.

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

Iowa Admin. Code r. 871-24.25(2) and (28) provide:

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 § 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 § 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:

(2) The claimant moved to a different locality.

(28) The claimant left after being reprimanded.

The claimant's leaving employment without notice or reason renders the separation without good cause attributable to the employer. While the claimant's leaving employment may have been based upon good personal reasons, it was not for a good cause reason attributable to the employer. Benefits must be denied.

DECISION:

The February 6, 2015 (reference 01) decision is affirmed. The claimant voluntarily left the 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.

Kristin A. Collinson
Administrative Law Judge

Decision Dated and Mailed

kac/can