

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUAN J PEREZ
Claimant

APPEAL NO. 09A-UI-14907-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA AG LLC
Employer

**Original Claim: 09-06-09
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 25, 2009, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on November 3, 2009. The claimant did participate through the interpretation of Olga Esparza. The employer did participate through Alison Marshall, Payroll and Human Resources Clerk.

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 van driver and production worker, full-time, beginning October 20, 2007, through July 25, 2009, when he voluntarily quit. The claimant quit to move to Texas in July 2009 and to take vacation. He later returned to the employer during the week of September 20, 2009 and asked for his job back. He was not rehired, as the employer had conducted an investigation into allegations of sexual harassment committed by the claimant and others and the employer determined not to rehire him. The employer was not obligated to rehire the claimant after he voluntarily quit to go on vacation and to move to Texas. The claimant did not establish that he had permission to be gone indefinitely for any reason and the employer was justified in considering the claimant had quit when he did not return to work from July 25 until he came back looking for work on September 20, 2009.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment 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.

871 IAC 24.25(2) 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 § 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.

871 IAC 24.25(25) provides:

(25) The claimant left to take a vacation.

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 voluntarily quit to move to Texas and to take a vacation. While claimant's decision to quit may have been based upon good personal reasons, it was not a good-cause reason attributable to the employer for leaving the employment. The claimant did not have permission to be gone indefinitely nor did his supervisor give him permission to be gone indefinitely on vacation. The employer was not obligated to rehire the claimant after he left. Benefits must be denied.

DECISION:

The September 25, 2009, reference 02, 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