

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERTO A SIERRA
Claimant

APPEAL NO. 08A-UI-09138-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC
Employer

**OC: 06/10/07 R: 01
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Roberto Sierra (claimant) appealed a representative's October 6, 2008 decision (reference 04) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Farmland Foods (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 23, 2008. The claimant participated personally through Ike Rocha, Interpreter. The employer participated by Becky Jacobsen, Human Resources Manager.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 28, 2008, as a full-time production worker. The claimant signed for receipt of the employer's Spanish handbook on June 18, 2008. The handbook indicates that an employee would be considered to have quit if he leaves work without notifying his supervisor.

The employer had a meeting with the claimant telling him that the job he was doing had been moved to another shift. The claimant did not have enough seniority to be moved to the other shift. The employer told him that he would be moved from job to job until a job was found for him. An interpreter was present to inform the claimant.

On August 12, 2008, the claimant went to work for one hour. During that time the supervisor put him on a job in a cold room that the claimant did not want to work. The job was normally performed by two workers to expedite the process. The claimant walked off the job without notifying the employer. The employer assumed he had quit.

On August 13, 2008, the claimant appeared at work to complain about his supervisor and the jobs the supervisor assigned to him. The employer told the claimant that he was considered to have quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 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(27) 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 section 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 section 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:

(27) The claimant left rather than perform the assigned work as instructed.

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). The claimant's intention to voluntarily leave work was evidenced by his actions. He walked off the job and quit work. When an employee quits work rather than perform the assigned work, his leaving is without good cause attributable to the employer. The claimant left work rather than perform the job assigned by the employer. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's October 6, 2008 decision (reference 04) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until

the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css