

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

REBECCA M ARMAN
Claimant

APPEAL NO: 19A-UI-03101-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OSCEOLA FOOD LLC
Employer

**OC: 03/17/19
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 4, 2019, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 2, 2019. The claimant participated personally. The employer participated through Audria Gale, hearing representative for Employer's Unity. Roberto Luna, human resources manager, testified for the employer.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Employer Exhibits 1-3 were admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit the employment with 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 production worker from November 26, 2018 until December 3, 2018 and was separated from employment on December 13, 2018.

The employer has a written rule that states three consecutive no call/no shows will result in voluntary separation due to job abandonment. The claimant was trained on the employer's policies at hire, and also knew she must call the phone number listed on the back of her id badge to report an absence. Absences must be reported 30 minutes prior to her 7:00 shift start time.

The employer is a meat processing facility in a refrigerated setting. The temperatures on the production floor range from 35-45 degrees. Employees are given appropriate clothing to stay warm and can bring jackets too. The claimant has previously worked under similar conditions. She disclosed to the employer she had asthma at the time of hire. She did not present any

doctor's note prior to separation that a doctor advised her to quit, nor did she request an accommodation in order to preserve employment.

The claimant last performed work on December 3, 2018. She was admitted to Mercy hospital on December 4, 2018 and spent two days in the ICU and an additional seven days in a regular room. The claimant stated she did not have phone access on December 4 or 5, 2018 to notify her employer of her absence but that she asked a nurse to call for her. Once moved out of ICU, the claimant had access to a telephone for the next seven days. She made no attempts to contact the employer to report her absences. She stated she asked her father to call for her on December 8, 2018. She also stated she thought the hospital faxed over medical documentation to the employer. She had no available details of who her dad or nurse spoke to or when or where the fax was sent.

The employer records messages left on the attendance line in a log book and denied receipt of any call by the claimant's father or a nurse on her behalf. The employer had no fax from the hospital. The claimant was a no-call/no-show December 4, 5, 6, 7, 10, 11, and 12. The employer processed her separation effective December 13, 2018 as a voluntary quit due to job abandonment. The claimant stated she called the employer on December 13, 2018 and spoke to someone (she could not remember who) and asked if she could work in maintenance. She did not attempt to return to her position or present medical documentation stating she could not.

The employer denied knowledge of any call, stating given the type of equipment used at its facility, it would be very unlikely that a production worker would be allowed to move to maintenance without special training and there is no record of the claimant making such request.

REASONING AND CONCLUSIONS OF LAW:

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. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.*

Iowa Admin. Code r. 871-24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. In this case, the claimant did not contact the employer for approximately ten days. The administrative law judge recognizes the

claimant may not have been able to reasonably notify the employer of her absences when she was in the hospital on December 4-5, 2018 because she was in the ICU. The claimant could have reasonably contacted the employer December 6-12 though, or verify that her father or medical staff had made contact with the employer. The claimant did not present credible evidence that attempts to contact the employer were made and the employer denied receipt of any such contacts. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive work days in violation of the employer's policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The April 4, 2019, (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 she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn