

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ABDISALAM M ALI
Claimant

WEST LIBERTY FOODS LLC
Employer

APPEAL 22R-UI-05465-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/06/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from the October 4, 2021 (reference 03) unemployment insurance decision that denied benefits finding claimant voluntarily quit employment on March 31, 2021 without good cause. The parties were properly notified of the hearing. A telephone hearing was scheduled for November 29, 2021. No hearing was held because appellant failed to respond to the hearing notice and provide a telephone number at which appellant could be reached for the scheduled hearing. The administrative law judge registered the appellant based upon information gathered from the appeal letter. The appellant was not available at the telephone number on the appeal letter; therefore, no hearing was held. On December 8, 2021, a default decision was issued dismissing the appeal.

Claimant appealed to the Employment Appeal Board (EAB). On February 25, 2022, the EAB remanded this matter to the Appeals Bureau for a hearing on the merits. Upon remand, due notice was issued and a hearing was held on April 12, 2022. Claimant participated. Employer participated through Myra Zamudio, Human Resources Manager. Somali interpretation was provided by Mohamed (ID: 14167) of CTS Language Link. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUE:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed full-time with West Liberty Foods from June 24, 2021 until August 31, 2021. When claimant began his employment, he was a Cooler Operator working with meat products, which included pork. The products were labeled. On August 6, 2021, claimant notified employer that he could not work with pork products for religious reasons. Employer moved claimant to a position in the spice room where claimant would not have any contact with meat products. Claimant tried the position for a few weeks and told employer that he liked it. On August 31, 2021, employer offered claimant the job in the spice room. Claimant declined

stating that he could not lift the bags of spices. Employer explained that the spice room was the only position employer had that did not include some contact with meat products. Claimant quit his employment rather than continue working in the spice room. Employer had continuing work available for claimant. Claimant's job was not in jeopardy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find claimant's testimony that he informed employer that he could not work with pork when he began his employment to lack credibility. I also find claimant's testimony that he was unaware that he was working with pork products between June 24, 2021 and August 6, 2021 to lack credibility. Finally, I find employer's testimony credible that claimant's job in the spice room did not require contact with pork.

When claimant informed employer that he did not want to work with pork, employer immediately transferred claimant to work in the spice room – the only position employer had that did not

require contact with pork. Nevertheless, claimant quit his employment. Claimant has not met his burden of proving that he quit for good cause attributable to employer. Benefits are denied.

DECISION:

The October 4, 2021 (reference 03) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Adrienne C. Williamson
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April 25, 2022
Decision Dated and Mailed

acw/ACW