

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIA C CHAVEZ
Claimant

APPEAL 21A-UI-22961-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SMITHFEILD FRESH MEATS CORP
Employer

**OC: 09/12/21
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Maria C Chavez, the claimant/appellant filed an appeal from the October 5, 2021 (reference 01) unemployment insurance decision that denied benefits based on an August 28, 2021 voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on December 7, 2021. Ms. Chavez participated and testified through a CTS Language Link Spanish interpreter. The employer did not participate in the hearing. Claimant's Exhibits A and B were admitted as evidence.

ISSUES:

Did Ms. Chavez voluntarily quit without good cause attributable to the employer?
Is Ms. Chavez able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Chavez began working for the employer on November 4, 2009. She worked as a full-time production worker. Her last day at work was August 28, 2021.

On November 18, 2018, Ms. Chavez's shoulder was injured on the job. Ms. Chavez retained an attorney to help her with her workplace injury case. Ms. Chavez had shoulder surgery in February 2019. She never fully recovered and began to have neck pain. Ms. Chavez went to the doctor on August 16, 2021 for neck pain. She provided a doctor's note releasing her to return to work on August 17. Claimant's Exhibit B.

The employer's third-party Family Medical Leave Act (FMLA) administrator approved Ms. Chavez for FMLA leave from August 30 through September 1. Claimant's Exhibit A. Ms. Chavez went to the doctor again on August 31 for neck pain. Ms. Chavez's doctor released her to return to work on September 13, or sooner if she was able to work.

While Ms. Chavez was off of work per her doctor's note, Ms. Chavez, through her attorney, and the employer came to an agreement about her workplace injury case. The employer agreed to pay Ms. Chavez money, and Ms. Chavez agreed to not return to work. Although Ms. Chavez wanted to return to work, she signed the agreement paperwork.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Chavez's separation from employment was 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.

Iowa Admin. Code r. 871-24.25 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.

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 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).

In this case, Ms. Chavez, with the assistance of her attorney, quit her employment in exchange for the employer paying her money for her workplace injury case. Ms. Chavez signing the agreement showed her intention to end her employment, and was an act that ended her employment. Ms. Chavez's leaving may have been based upon good personal reasons, but it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The October 5, 2021, (reference 01) unemployment insurance decision is affirmed. Ms. Chavez voluntarily left her 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.



Daniel Zeno
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January 12, 2022
Decision Dated and Mailed

dz/scn