

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TONI M MISHLER
Claimant

APPEAL 16A-UI-08950-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRI STAR MEAT & POULTRY LLC
Employer

OC: 07/24/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 9, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment by refusing to continue working. The parties were properly notified of the hearing. A telephone hearing was held on September 2, 2016. The claimant, Toni M. Mishler, participated. The employer, Agri Star Meat & Poultry, L.L.C., participated through Diane Guerrero, HR manager; and Alisha Arias, housekeeping and supply supervisor. Employer's Exhibits 1 through 4 were received and admitted into the record.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a laundry employee, from April 20, 2016, until July 24, 2016, when she voluntarily quit due to ongoing difficulties in her work environment. On claimant's final day of work, she asked Arias to get her a rain jacket for a rabbi. Claimant claims Arias threw the jacket at her and later threw some rain pants at her. Arias denies throwing anything at claimant.

Claimant reported her issue to Guerrero via Facebook message. Guerrero listened to claimant's concerns, proposed several possible stop-gap solutions to fix the immediate issue, and let her know she would look into it in three days when she had more time available. (Exhibit 4) Claimant responded and stated she would return to work the following day and stated she turned in her key. Guerrero responded that claimant, Arias, and a coworker would all need to write out statements and said, "We will figure this out." Claimant never returned to work after this day.

Claimant had issues with Arias and her mother, Laura, since she began working in laundry in May 2016. Claimant requested a transfer, but she was told she needed to stay in that position for one year before she was able to transfer out. Claimant reported previous issues to Laura Rooney in human resources. Guerrero testified that claimant had brought concerns to her in the past, and she attempted to resolve them.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit her employment without good cause attributable to the employer. Benefits are withheld.

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.

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. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

...

(6) The claimant left as a result of an inability to work with other employees.

...

(21) The claimant left because of dissatisfaction with the work environment.

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). Here, claimant quit after an adverse interaction with a coworker. It does not appear that any of the items Arias threw at claimant caused any real or possible danger to her. Rather, it seems that the "throwing" was more of a rude pass than an actual throw. Claimant had difficulties with this coworker in the past, and Guerrero said she was willing to take action to help claimant, though she could not do so immediately. The average person in claimant's situation would not feel compelled to quit employment in that circumstance.

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). While some of claimant's statements in Exhibit 4 indicate she did not intend to quit on July 24, claimant testified that she did in fact intend to quit. Regardless of any statement to the contrary that claimant made to Guerrero, claimant abandoned her job mid-shift on July 24 and never returned to work after that day. Claimant's decision to quit was not for a good cause reason attributable to the employer. Benefits are withheld.

DECISION:

The August 9, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant separated from 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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