

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SANTIAGO R GRANADOS
Claimant

APPEAL NO. 15A-UI-11934-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CON AGRA FOODS INC
Employer

OC: 03/01/15
Claimant: Appellant (4)

Iowa Code Section 96.5(1) – Voluntary Quit
871 IAC 24.27 – Voluntary Quit of Part-time Employment

STATEMENT OF THE CASE:

Santiago Granados filed a timely appeal from the October 22, 2015, reference 02, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on an Agency conclusion that Mr. Granados had voluntarily quit on May 13, 2015 without good cause attributable to the employer. After due notice was issued, a hearing was held on November 12, 2015. Mr. Granados participated. Kenya Phillips represented the employer. Spanish-English interpreter Mike Prez assisted with the hearing. The hearing in this matter was consolidated with the hearing in Appeal Number 15A-UI-11935-JTT. The administrative law judge took official notice of the Agency's administrative record of benefits paid to Mr. Granados and record of base period employers.

ISSUES:

Whether Mr. Granados' voluntary quit was for good cause attributable to the employer. It was not.

Whether the employment was part-time. It was.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Santiago Granados was employed by Con Agra Foods, Inc., as a part-time general laborer from October 2014 until May 11, 2015, when he voluntarily quit to relocate to Florida. At the time Mr. Granados accepted the employment, he did so with the understanding that there would be no guarantee of work hours. During the employment Mr. Granados averaged about 10 hours per week or less. Throughout March and the beginning of April 2015, Mr. Granados was on a leave of absence due to back pain. In mid-April, Mr. Granados returned to his part-time work schedule. During the first week of May 2015, the employer had full-time hours for Mr. Granados. Mr. Granados then quit the following week. Mr. Granados told the employer he had a family emergency that necessitated him traveling to Florida. Mr. Granados told the employer he would be gone at least three to six months and might not return. Mr. Granados offered no specifics regarding the family emergency. There was in fact no family emergency in

Florida. Rather, Mr. Granados had decided to relocate to Florida so that he could be closer to his family. In addition, Mr. Granados concluded, despite the fact that the employer had a recent spike in hours that the employer had available for him, that he lacked sufficient income to be self-supporting in Iowa. Mr. Granados relocated to Florida and did not return to Iowa.

Con Agra is not a base period employer for purposes of the claim year that started for Mr. Granados on March 1, 2015. The sole base period employer is Manpower.

REASONING AND CONCLUSIONS OF LAW:

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(2) 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 § 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 § 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:

(2) The claimant moved to a different locality.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times his weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

The evidence in the record establishes that Mr. Granados voluntarily quit the part-time employment with Con Agra Foods to relocate to Florida. Mr. Granados voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Granados is disqualified for *benefits based on the wages from the employment at Con Agra Foods, Inc.*, until he has worked in and been paid wages for insured work equal to ten times his weekly benefit

amount, provided he is otherwise eligible. Con Agra Foods' account shall not be charged for benefits paid to Mr. Granados. Because the quit was from part-time employment, Mr. Granados remains eligible for unemployment insurance benefits based on his base period employment with Manpower, provided he meets all other eligibility requirements.

DECISION:

The October 22, 2015, reference 02, decision is modified to reflect the part-time nature of the employment. The claimant voluntarily quit the part-time employment without good cause attributable to the employer. The claimant is disqualified for benefits based on wages from this employment until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged. The claimant remains eligible for benefits based on his base period wage credits from the Manpower employment, provided he meets all other eligibility requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs