

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JORGE M. ARCE
3054 Stone Park Blvd
Sioux City, IA 51104

WELLS ENTERPRISES INC
c/o ADP LLC and its Subsidiaries
P.O. Box 66744
Saint Louis, MO 63166

DIA APPEAL NO. 21IWDUI2081
IWD APPEAL NO. 21A-UI-07543

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within fifteen (15) days from the mailing date below the administrative law judge's signature on the last page of the decision, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
or
Fax (515) 281-7191

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

ONLINE RESOURCES:

UI law and administrative rules: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-benefits-handbook-guide-unemployment-insurance-benefits>

Handbook for Employers and forms: <https://www.iowaworkforcedevelopment.gov/employerforms>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JORGE M. ARCE
Claimant

WELLS ENTERPRISES INC
Employer

**DIA APPEAL NO. 21IWDUI2081
IWD APPEAL NO. 20A-UI-07543**

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/19/20
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)A – Wrongful Discharge

STATEMENT OF THE CASE:

Claimant Jorge M. Arce filed an appeal from the March 5, 2021 (reference 01) unemployment insurance decision that denied regular unemployment benefits based upon his separation from employment from Employer Wells Enterprises Inc. The Claimant and were properly notified of the hearing. A telephone hearing was held on May 6, 2021. Claimant Arce appeared and testified. Employer Wells Enterprises was represented by Equifax Representative Thomas Kuiper and Wells Human Resources Representative Stacy Roupe. Ms. Roupe testified. Notice was taken of the administrative file, which included the notice of telephone hearing, the transmittal form transmitting this case to DIA, the March 5 decision at issue herein, and the the Claimant's appeal request submitted on March 11, 2021. The Appellant submitted six pages of medical documents with his appeal, which are also part of the record.

ISSUE:

Whether the separation was a layoff, discharge for misconduct, or a voluntary quit without good cause.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the Administrative Law Judge finds as set forth below:

Claimant Jorge M. Arce worked for Employer Wells Enterprises from January 8, 2018 through July 22, 2019. He worked full-time in "packaging" at the Employer's LeMars facility.

On July 22, 2019, the Claimant told the Employer he was quitting. He was informed of a death in his family, and needed to leave the state. He was out of the state from July through August of 2019.

When the Claimant returned to Iowa in September of 2019, he did not return to Wells Enterprises. He started his own construction company and was self-employed. In April of 2021, construction jobs began to decrease because of COVID. Around April 19. He decided to self-

quarantine because he was worried about infecting his Mother and Grandmother, who lived with him. On May 4 he went to the doctor because he felt sick. He was diagnosed with sinusitis. On May 11 he returned to the doctor because he felt ill. He was sent for a COVID test on May 12. The results were positive. He quarantined through his illness. On May 26, when he returned to the doctor, he still had COVID. When he went to the doctor on June 1, he was diagnosed with strep.

Around June 15 the Claimant felt better and began looking for work. He was not able to secure work. He kept looking for jobs in July, but there was still no work because of COVID. He listed the companies he contacted in his appeal. He started to find jobs, and as of August 8, began working with ServPro.

The Claimant admitted at hearing that he voluntarily quit his job with Wells Enterprises. Wells' representative, Stacey Roupe, confirmed the Claimant voluntarily quit on July 19, after stating that he was leaving for personal reasons. His last day of employment was July 22, 2019.

Claimant Arce testified at hearing that he understands that he does not qualify for regular unemployment benefits, particularly from Wells. He would like to have Pandemic Unemployment Assistance for the months of April 2020 through August 2020 while he unable to work because he was ill, and/or he could not secure work as an independent construction contractor because of the pandemic.

Claimant Arce applied for unemployment benefits as of April 2020. He meant to file for Pandemic Unemployment Assistance. Iowa Workforce Development issued a decision on March 5, 2021 (Ref. 01) denying a claim for regular unemployment benefits. The decisions states in pertinent part: "Our records indicate you voluntarily quit work on 07/22/19, for personal reasons. Your quitting was not caused by your employer."

REASONING AND CONCLUSIONS OF LAW:

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

There is no evidence and no determination made that Claimant Jorge M. Arce was discharged from his employment for misconduct. The issue in this case is whether Claimant Arce voluntarily quit her employment with Wells Enterprises Inc.

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

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(20) 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 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).

There is no dispute in this case that Claimant Arce voluntarily left his job effective July 22, 2019 with Employer Wells Enterprises. The Claimant admitted as much at hearing, and the Employer verified the same information.

DECISION:

The March 5, 2021 (reference 01) decision finding that Claimant Jorge M. Arce is not entitled to regular unemployment assistance because he voluntarily quit employment his employment with Wells Enterprises Inc. is affirmed (found to be correct).

Iowa Workforce Development records show that Claimant Arce filed for federal Pandemic Unemployment Assistance (PUA). A decision was issued denying his PUA application. Claimant Arce appealed that decision. A telephone hearing is set for June 3, 2021 on his appeal for PUA benefits. The Claimant is encouraged to participate in that June 3 hearing.



Barbara Tapscott
Administrative Law Judge

May 10, 2021
Decision Dated and Mailed

BMT/AA

CC: Jorge M. Arce, Claimant (by First Class Mail)
Wells Enterprises Inc. c/o ADP LLC and its Subsidiaries (by First Class Mail)
Nicole Merrill, IWD (By Email)
Joni Benson, IWD (By Email)