

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARLA JOHNS**

Claimant

**APPEAL NO. 11A-UI-10753-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FARMLAND FOODS INC**

Employer

**OC: 07-17-11**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 9, 2011, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on September 8, 2011. The claimant participated in the hearing with witness, and current production worker for the employer, Amy Salvin. Luis Urteaga, human resources manager, and Jerry Simms, supervisor, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time production worker for Farmland Foods from April 27, 2011 to June 28, 2011. She walked off her job June 28, 2011, for several reasons. The claimant was upset about being rotated to different jobs, as other employees were, because she had a back injury several years ago and was afraid she would reinjure it. She did not indicate on her employment application that she ever had a back injury and did not have a doctor's note restricting what she was able to do, but the employer tried to accommodate her needs when business requirements did not interfere with those attempts. The claimant was also upset because Lead Person Enrique Alvarez spoke to her in broken English before her friend Amy Salvin started working for the employer. Ms. Salvin speaks both English and Spanish and after she started, Mr. Alvarez would tell Ms. Salvin the claimant's work assignments in Spanish and she would translate and relay the information to the claimant in English. The claimant found that practice to be "racist." On June 28, 2011, the claimant wanted to be moved from the deli line to the log line and the employer agreed to move her. The employee who had to move from the deli line to the log line to accommodate the claimant said to her, "If you can't do the job, you might as well go home." That was the second time that employee had made that comment to the claimant and she chose to walk out and go home at the 9:00 a.m. break. She never spoke to Supervisor Jerry Simms or Human Resources Manager Luis Urteaga about any of these incidents before she quit.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The employer tried to accommodate the claimant's concerns about her back by moving her from areas she did not wish to work in, even though she did not check the box on her employment application stating she had back problems or have a doctor's note restricting her from any activities. While Mr. Alvarez used the claimant's friend/co-worker, Ms. Salvin, to translate for him and the claimant found that "racist," Mr. Alvarez spoke broken English and it was simply more efficient for him to speak to Ms. Salvin in Spanish and have her give his instructions to the claimant in English. The claimant's charge of racism in this instance is unwarranted and inappropriate. With regard to her co-worker's statement that if the claimant could not do the job she might as well go home, the employer cannot be expected to prevent employees from making comments other employees do not like, even if the other employee's statement is annoying. The other employee in this case had no supervisory authority over the claimant and did not possess the ability to hire or fire employees and a reasonable person would have ignored her comment. Although the claimant was upset about these issues, she did not tell Mr. Simms about Mr. Alvarez speaking to her in Spanish through Ms. Salvin or about the other employee making comments to her and never went to Mr. Urteaga about any of her concerns before quitting. The claimant has described a dissatisfaction with the work environment, but not unlawful, intolerable, or detrimental working conditions as required by Iowa law. Therefore, the claimant has not met her burden of proving her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are denied.

**DECISION:**

The August 9, 2011, reference 01, decision is affirmed. The claimant 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.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw