

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JOSE A RAMOLETE**  
Claimant

**PRESTAGE FOODS OF IOWA LLC**  
Employer

**APPEAL 22A-UI-01729-DZ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/28/21**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Jose A Ramolete, the claimant/appellant filed an appeal from the December 17, 2021 (reference 01) unemployment insurance decision that denied benefits because of a July 20, 2021 voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on February 10, 2022. Mr. Ramolete participated and testified through a CTS Language Link Spanish interpreter. The employer did not participate in the hearing.

**ISSUE:**

Did Mr. Ramolete voluntarily quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Ramolete began working for the employer in May 2021. He worked as a full-time laborer. His employment ended on July 30, 2021.

Mr. Ramolete's brother was very ill. Mr. Ramolete asked the employer for time off to go see his brother in Mexico. Mr. Ramolete had eight hours of paid time off. The employer told Mr. Ramolete that he could take off two days to see his brother. Mr. Ramolete told the employer that two days would not be enough time to go see his brother in Mexico and return to work. The employer told Mr. Ramolete that he could only take off two days of work. Mr. Ramolete took those two days off and went to see his brother. He did not attend work for the next eighteen days. When Mr. Ramolete returned from seeing his brother, he went to employer to offer to return to work. The employer told Mr. Ramolete that he was no longer employed with the employer.

While Mr. Ramolete worked for the employer he concerns about safety issues at work. One employee killed another employee at work. A different employee was injured by a machine at work. The employer demanded that employees work at a very fast pace packing and cutting meat, including carry 100 pounds of ribs every eight seconds for an eight hour shift. The employer gave employees very short breaks – about seven minutes – meaning that sometimes

Mr. Ramolete was still eating and/or chewing as he returned to work from break. Mr. Ramolete talked with his manager about these issues but he did not feel that they did anything to address them.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes Mr. Ramolete'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(23) 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

Iowa Admin. Code r. 871-24.26(8) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(8) The claimant left for the necessary and sole purpose of taking care of a member of the claimant's immediate family who was ill or injured, and after that member of the claimant's family was sufficiently recovered, the claimant immediately returned and offered to perform services to the employer, but no work was available. Immediate family is defined as a collective body of persons who live under one roof and under one head or management, or a son or daughter, stepson, stepdaughter, father, mother, father-in-law, mother-in-law. Members of the immediate family must be related by blood or by marriage.

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, Mr. Ramolete left for the necessary and sole purpose of taking care of his brother who was ill, returned, and offered to go back to work but the employer told him he no longer had a job. Unfortunately for Mr. Ramolete (and all others who do not meet the law's definition of "immediate family"), the law considers Mr. Ramolete's leaving to go see his brother as a voluntary quit without good cause attributable to the employer. Had Mr. Ramolete gone to see his daughter or son, stepdaughter, stepson, mother, father, mother-in-law, or father-in-law, he may have been eligible for benefits. Since Mr. Ramolete's leaving was not for a good-cause reason attributable to the employer according to Iowa law, benefits are denied.

**DECISION:**

The December 17, 2021, (reference 01) unemployment insurance decision is affirmed. Mr. Ramolete voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



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March 8, 2022  
Decision Dated and Mailed

dz/scn