

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA S MCCULLOCH
Claimant

APPEAL NO. 10A-UI-06278-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC
Employer

OC: 03/21/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 22, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 15, 2010 Employer participated by Jessica Garcia, human resources assistant manager. Claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Jessica Garcia and Employer's Exhibits 1-2.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a pork production facility located in Dennison, Iowa. The claimant was hired as a full-time production worker on March 19, 2009. The claimant's last day of work was December 18, 2009.

The claimant left work due to a non-work-related medical condition. The claimant provided medical documentation that she could return to work on February 19, 2010. (Exhibit 2) The claimant did not return to work. The employer sent the claimant letters on March 4, 2010, and March 30, 2010. The letters were sent certified mail and were received by the claimant. In the letter dated March 30, 2010, the claimant was asked to provide certification by April 6, 2010. The claimant did not respond. She was considered terminated as of April 6, 2010.

REASONING AND CONCLUSIONS OF LAW:

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The evidence in this case established that it was the claimant who initiated the separation of employment. The claimant had a non-work-related medical condition and was off work. The employer gave the claimant a voluntary leave of absence. The employer was given medical certification that the claimant could return to work full duty on February 19, 2010. The claimant did not return to work and did not contact the employer to provide further information. The claimant, in effect, abandoned her job. The claimant's failure to return to work and/or to contact her employer evidences her intent to sever the employment relationship. The claimant did not participate in the hearing and therefore her reasons for not returning to work are unknown. The administrative law judge could also not consider whether the claimant was able and available for work.

DECISION:

The decision of the representative dated April 22, 2010, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs