

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

YOLEGNI LOPEZ ROMERO
Claimant

APPEAL NO. 15A-UI-04868-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMBRANDT ENTERPRISES INC
Employer

OC: 03/15/15
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Yolegni Lopez Romero (claimant) appealed a representative's April 14, 2015, decision (reference 04) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Rembrandt Enterprises (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 2, 3, and 19, 2015. The claimant participated personally through Interpreter, Olga Esparza. The employer participated by Pam Winkel, Human Resources Administrative Training Specialist; Charo Marcos, Human Resources Recruiter; Lori Karr, Human Resources Manager; and Patrick Burger, Safety Director. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 10, 2014 and at the end of her employment she was working as a full-time packer. On January 10, 2015, the claimant fell at work. The immediate supervisor saw the claimant fall and filled out a first report of injury. The claimant declined medical treatment. Later the claimant's injury was denied as being a work-related injury.

On January 24, 2015, the claimant was seen by her physician and the doctor restricted her from working from January 23 through 29, 2015. The claimant provided the note to the employer on January 26, 2015. On January 30, the claimant was again seen by her physician. The physician restricted her from working from January 30 through February 5, 2015. The claimant provided the note to the employer on January 30, 2015. The employer asked the claimant to obtain another note that listed any restrictions she might have upon her return to work. In the meantime the employer placed the claimant on a leave of absence from January 24 through February 28, 2015.

On March 18, 2015, the employer met with the claimant with an interpreter. On March 18, 2015, the claimant provided a note to the employer indicating she could return to work on February 6, 2015, with no restrictions. The new note did not have a date indicating a day the physician wrote the note. The claimant told the employer she received the note on March 3, 2015. The claimant explained to the employer that she was being seen by her physician and the doctor wanted her to change positions at work. The claimant said her work and lifting were causing her pain. The employer told her all positions require a minimum of 50 pounds of lifting. The claimant said she did not want to lift. The employer asked her if she was voluntarily leaving. The claimant said she was.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes she did.

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(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

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's intention to voluntarily leave work was evidenced by her words and actions. She told the employer she did not want to do the work and wanted to quit the job. When an employee quits work rather than perform the assigned work, her leaving is without good cause attributable to the employer. The claimant left work rather than perform the job assigned by the employer. The claimant did not have any restrictions from her physician that prevented her from doing the work. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's April 14, 2015, decision (reference 04) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs