

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAUL SANCHEZ
Claimant

APPEAL NO. 13A-UI-12979-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

31 W INSULATION
Employer

OC: 08/18/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated November 13, 2013, reference 03, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on December 11, 2013, by telephone conference call. The claimant participated personally. The employer participated by Janet Bartell, Human Resources Manager. The record consists of the testimony of Raul Sanchez and the testimony of Janet Bartell.

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 installs insulation and garage doors. The claimant worked at the employer's location in Louisville, Kentucky. The claimant was hired on September 9, 2013, and actually began working on September 16, 2013. The claimant quit his job on October 4, 2013, to move back to Cedar Rapids, Iowa. He told the employer he had to take care of a sick family member in Mexico. Work was available had the claimant elected to keep working.

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.

871 IAC 24.25(2) 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:

(2) The claimant moved to a different locality.

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 claimant is not eligible for unemployment insurance benefits. The claimant voluntarily quit his job in Louisville, Kentucky, in order to move back to Cedar Rapids. The claimant was the party that severed the employment relationship. Since the claimant quit without good cause attributable to the employer, benefits are denied.

DECISION:

The decision of the representative dated November 13, 2013, reference 03, 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/css