

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GUADALUPE S VASQUEZ

Claimant

APPEAL NO: 15A-UI-00844-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TITANIA CREW LTD

Employer

OC: 07/13/14

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 13, 2015 determination (reference 03) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit this employment for reasons that do not qualify him to receive benefits. The claimant participated at the February 12 hearing. Mary Rains, the owner, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit this employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer as a concrete laborer in early March 2014. When he was laid off in June, the claimant worked for another employer, Lieber Construction. The employer contacted the claimant in October and asked if he would work at a job in Montana. The claimant agreed to work in Montana even though he resides in Sioux City, Iowa.

The last day the claimant worked for the employer in Montana was December 15, 2014. The claimant left the Montana job site after receiving a call at midnight that his child, who lives in California with his mother, was ill. The claimant considered this an emergency situation since his child is a special needs child. He left for California on December 16. On his way to California, the claimant called his supervisor, R.S., and left him a message that he had a family situation that required him to leave the job. About a week later the two men talked. The claimant then told R.S. that he planned to return as soon as possible and wanted to continue to work for the employer in Iowa. The claimant understood that when the employer had work in Sioux City again, R.S. would call the claimant to work.

The employer's business is seasonal and does not grant leave of absences to employees. The employer expects employees to work until the job is completed. There was continuing work in Montana for the claimant. As of February 12 the employer was still working at the Montana job site.

The claimant reopened his claim for benefits during the week of December 21, 2014.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The evidence indicates the claimant initiated his employment separation by leaving work on December 16 to go to California to see his son. For unemployment insurance purposes, the claimant voluntarily quit this employment. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits without good cause when he leaves due to family responsibilities or serious family needs. 871 IAC 24.25(23). The claimant established personal reasons for leaving work, but his reasons for leaving do not qualify him to receive benefits. Also, when the claimant talked to this supervisor, he talked about returning to work in Sioux City, but not Montana where the employer was working. For unemployment insurance purposes, the claimant quit for reasons that do not qualify him to receive benefits. As of December 21, 2014, the claimant is not qualified to receive benefits.

DECISION:

The representative's January 13, 2015 determination (reference 03) is affirmed. The claimant voluntarily left his employment on December 16, 2014 for personal reasons, but these reasons do not qualify him to receive benefits. As of December 21, 2014, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs