

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ABEL ALVAREZ
Claimant

APPEAL NO: 07O-UI-02706-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

JOHN MORRELL & CO
Employer

**OC: 12-10-06 R: 12
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 16, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 25, 2007. The claimant participated in the hearing with Interpreter Ike Rocha. Steve Joyce, Human Resources Director, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time laborer for John Morrell & Company from June 9, 2003 to August 25, 2006. The claimant notified the employer August 25, 2006, that he was quitting to return to Mexico. The claimant testified he actually quit because he was uncomfortable with the employer often asking if he and other employees could stay an extra 15 to 20 minutes for clean up and that time not always showing up on his paycheck during the last month of his employment. When the overtime was not included in his check the claimant complained and the employer adjusted his check so he received the correct pay. He did not go to Human Resources about the problem but he did speak to his supervisor and the situation was rectified.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. While the claimant was understandably upset when his overtime was not on his check, the employer did correct the situation when it was made aware of it and although the claimant may have been inconvenienced he admits he was paid and has not shown any resulting harm. Consequently, the administrative law judge concludes the claimant voluntarily left his employment and has not demonstrated that his reason for leaving rises to the level of good cause attributable to the employer as defined by Iowa law. Benefits are denied.

DECISION:

The January 16, 2007, reference 01, decision is affirmed. The claimant voluntarily left 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs