

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALFONSO D DENG
Claimant

APPEAL NO. 10A-UI-17666-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC
Employer

OC: 10/17/10
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the December 20, 2010, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on February 19, 2011. Claimant participated. Jessica Garcia represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 10A-UI-17665-JTT. Exhibits One through Four were received into evidence.

ISSUE:

Whether the claimant separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

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 and last performed work for the employer on October 11, 2010. On the evening of October 11, the claimant became incarcerated. The claimant was then absent without notifying the employer for four consecutive days. The employer's written policy deemed three consecutive no-call/no-show absences a voluntary quit. The policy was contained in the handbook the claimant received. The claimant was released from custody on the evening of Friday, October 15, 2010. When the claimant attempted to report for work on Monday, October 18, 2010, the employer told him it deemed the employment terminated.

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.

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.

A claimant is deemed to have voluntarily quit if the claimant becomes incarcerated. See 871 IAC 24.25(16).

A claimant who is absent three days without notified the employer in violation of the employer's policy is presumed to have voluntarily quit without good cause attributable to the employer. See 871 IAC 24.25(4).

The evidence in the record indicates that the claimant voluntarily quit the employment without good cause attributable to the employer by becoming incarcerated for four days and missing four shifts without notifying the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to the claimant.

DECISION:

The Agency representatives December 20, 2010, reference 02, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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