

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRINIDAD J BANDERAS
Claimant

APPEAL NO: 09A-UI-07849-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

**Original Claim: 04/26/09
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(2) – Move to a New Locality

STATEMENT OF THE CASE:

The claimant appealed a department decision dated May 28, 2009, reference 01, that held he voluntarily quit employment on December 13, 2008, and that benefits are denied. A telephone hearing was scheduled for June 22, 2009. The claimant and the employer did not participate.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: The claimant worked for the employer from September 22, 2008 to December 13, 2008. The claimant quit on December 13 to relocate to another locality. Continuing employment was available to the claimant.

The claimant failed to respond to the hearing notice though the department had an interpreter available for him. The employer did not respond to the notice for hearing.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit 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.

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.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer on December 13, 2008 to move to a different locality.

The only evidence in this matter is the employer protest of the claimant's claim, as the parties failed to respond to the hearing notice. The employer protested that the claimant quit his job to relocate and that continuing employment was available when he left.

DECISION:

The department decision dated May 28, 2009, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on December 13, 2008. Benefits are denied until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw