

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARY P CHAN**  
Claimant

**APPEAL NO. 090-UI-02225-E2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT & COMPANY**  
Employer

**OC: 11/09/08 R: 02**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a decision of a representative dated December 12, 2008, reference 01, which held the claimant ineligible for unemployment insurance benefits. The Employment Appeal Board remanded this case to be scheduled for a new hearing after the claimant filed an appeal of a denial of her claim due to an untimely appeal. After due notice, a telephone conference hearing was scheduled for and held on March 4, 2009. Employer participated by Tony Luse. The claimant failed to respond to the hearing notice and did not participate.

**ISSUE:**

The issue in this matter is whether the claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: The claimant last worked for the employer September 30, 2008.

Employer discharged claimant on October 7, 2008, because she missed three days of work without calling in. The employer had work available.

**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(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The administrative law judge holds that the evidence has established that the claimant did not voluntarily quit for good cause attributable to employer. The claimant terminated the employment relationship because of three no-call absences in violation of policy. This is job abandonment. Benefits are withheld.

**DECISION:**

The decision of the representative dated December 12, 2008, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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James Elliott  
Administrative Law Judge

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Decision Dated and Mailed

jfe/kjw