

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DELIA GOMEZ**

Claimant

**APPEAL NO. 08A-UI-10601-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT & COMPANY**

Employer

**OC: 09/21/08 R: 02  
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Delia Gomez (claimant) appealed an unemployment insurance decision dated November 4, 2008, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Swift & Company (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 1, 2008. The claimant participated in the hearing. Ike Rocha interpreted on behalf of the claimant. The employer participated through Aaron Vawter, Human Resources Coordinator. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time production employee from May 2, 2002 through September 22, 2008. She was going to be placed in a different production area and a trainer advised her of this fact on September 17, 2008. The claimant contends she did not know how to put on the different equipment and was going to be forced to do a job she did not know how to do. The equipment consisted of gloves and a different knife. The claimant said the trainer laughed at her and she felt like crying. The claimant was then taken to the office and apparently sent home when she refused to perform the different job duties.

The employer contends the claimant called in on September 18, 2008 and left a message that she quit but did not give any explanation. The employer waited three days and when the claimant failed to call or report to work for three consecutive days, she was considered to have voluntarily quit effective September 22, 2008.

### **REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

The claimant contends she was fired, but the evidence does not support her contention. She was being moved to different job duties and claimed she did not know how to do the job duties. An employer has the right to allocate personnel in accordance with its needs and resources. Brandi v. IDJS, (Unpublished, Iowa App. 1986). The employer had no reason to discharge the claimant but did send her home when she refused to follow directives.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit by calling the employer on September 18, 2008 and stating that she quit. She carried out that intent when she failed to call or report to work for the next three consecutive days.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

### **DECISION:**

The unemployment insurance decision dated November 4, 2008, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/kjw