

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

TUT C MOANG
205 S 2ND ST #1-B
MARSHALLTOWN IA 50158-2879

SWIFT & COMPANY
C/O TALX CORPORATION
PO BOX 749000
ARVADA CO 80006-9000

Appeal Number: 06A-UI-04970-CT
OC: 04/09/06 R: 02
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Tut Moang filed an appeal from a representative's decision dated May 1, 2006, reference 01, which denied benefits based on his separation from Swift & Company. After due notice was issued, a hearing was held by telephone on May 24, 2006. Mr. Moang participated personally. The employer participated by Aaron Vawter, Human Resources Coordinator.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Moang began working for Swift & Company on January 16 and last performed services on March 28, 2006. He worked full time in production. Mr. Moang went to court on March 29 because of unpaid traffic tickets. He was then confined

to jail for seven days as a result of not having paid the tickets. Neither he nor anyone acting on his behalf contacted the employer to explain his circumstances.

Mr. Moang was released from jail on April 7 and immediately went to the workplace. He was advised that he no longer had employment. The employer has a written work rule, of which Mr. Moang was aware, which provides that three consecutive unreported absences will be considered a voluntary quit. Mr. Moang's incarceration was the sole reason for his separation.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Moang was separated from employment for any disqualifying reason. He was absent from work for more than three days without notice to the employer. Under such circumstances, an individual is presumed to have quit without good cause attributable to the employer. See 871 IAC 24.25(4). An individual who leaves work due to incarceration is also presumed to have quit for no good cause attributable to the employer. See 871 IAC 24.25(16).

The evidence of record does not establish any cause attributable to Swift & Company for Mr. Moang's separation. Accordingly, he is disqualified from receiving job insurance benefits pursuant to Iowa Code section 96.5(1).

DECISION:

The representative's decision dated May 1, 2006, reference 01, is hereby affirmed. Mr. Moang was separated from employment for no 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/kkf