

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARIA S PEREZ**

Claimant

**APPEAL NO. 08A-UI-05631-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT & COMPANY**

Employer

**OC: 05/18/08 R: 02  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 9, 2008, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on July 2, 2008. Claimant participated personally through Angela Arellano, Interpreter. Employer participated through Aaron Vawter, Human Resources Coordinator.

**ISSUE:**

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on July 10, 2006, as a full-time production worker. The claimant signed for receipt of the employer's Spanish handbook on July 11, 2006. The handbook indicates that an employee will be terminated if she has ten points or three unexcused absences within a twelve-month period.

The claimant's sixteen-year-old daughter was expecting a child in May 2008. The claimant asked the employer's permission to be absent from work once every two weeks to take her daughter to the doctor. The supervisor gave the claimant permission to leave. As it neared the baby's due date the doctor wanted to see the claimant's daughter once per week. The supervisor again gave the claimant permission to leave. On May 14, 2008, the claimant asked to leave at noon. The supervisor allowed the claimant permission to leave but issued the claimant a written warning for attendance. The claimant signed a 90-day contract that stated she was not to be absent in the next 90 days or she would be terminated. The claimant left work and did not return on May 15, 16 or 17, 2008. The employer thought the claimant quit.

The claimant testified that she thought she was terminated even though she signed a contract that said she could continue to work so long as she was not absent in the next 90 days. The claimant did not understand that when the supervisor gave her permission to leave that the absences still counted as part of her ten point limit.

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

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work 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(28) 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:

(28) The claimant left after being reprimanded.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her actions. She stopped appearing for work and did not contact the employer. When an employee stops working after having been reprimanded, the employee voluntarily quit work without good cause attributable to the employer. The claimant stopped appearing for work after having been reprimanded. She voluntarily quit work without good cause attributable to the employer. Continued work was available had the claimant not resigned.

## **DECISION:**

The June 9, 2008, reference 01, representative's decision is affirmed. The claimant is not eligible to receive unemployment insurance benefits, because the claimant was discharged from

work for misconduct. Benefits are withheld until the claimant has worked in and has 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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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs