

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CE CE
Claimant

APPEAL NO. 100-UI-15963-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY / JBS
Employer

OC: 05/16/10
Claimant: Appellant (1)

Section 96.5-1-d – Voluntary Leaving/Illness or Injury
871 IAC 24.25(35) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

Ce Ce (claimant) appealed a representative's June 24, 2010 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Swift & Company / JBS (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 11, 2011. The claimant participated in the hearing. Jenny Mora appeared on the employer's behalf. Ehtaw Dwe served as interpreter. 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:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on March 10, 2008. She worked full-time as a production employee cutting and carrying meat, working on the second shift. Her last day of work was May 15, 2010. On May 21 she informed her supervisor that she was quitting due to complications from a miscarriage.

The claimant was about three and a half months pregnant as of about May 15. On May 18 she discovered she had miscarried. A resulting medical procedure was performed, and her doctor advised her that she needed to be off work for at least two months. She therefore advised the employer that she was quitting. After the two months passed, she did not attempt to return to work, as she did not believe continuing that type of work was good for her continued health. Her doctor did not indicate she could not have returned to the work after the two months.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit, she would not be eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Where the quit is for medical or

health reasons, the quit is disqualifying at least until the claimant has recovered and seeks to return to work unless the medical or health issue is attributable to the employer. Iowa Code § 96.5-1; 871 IAC 24.25(35); 871 IAC 24.26(6)b.

Where a claimant has been compelled to leave employment upon the advice of her physician due to a medical or health issue not shown to have been caused or aggravated by the work environment, the claimant is not eligible to receive unemployment insurance benefits until or unless the claimant then recovers, is released to return to work by her physician, and in fact does attempt to return to work with the employer. 871 IAC 24.25(35). A “recovery” under Iowa Code § 96.5-1-d means a complete recovery without restriction. Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa App. 1985). Unemployment insurance benefits are not intended to substitute for health or disability benefits. White v. Employment Appeal Board, 487 N.W.2d 342 (Iowa 1992). The claimant was released to return to full work duties as of about July 25, 2010, but of her own choice decided not to do so. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

DECISION:

The representative’s June 24, 2010 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of May 21, 2010, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw