

**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**

**JESUS ARROYO ESPINOZA
APT 1
524 N 1ST ST
MARSHALLTOWN IA 50158-5882**

**SWIFT AND COMPANY
C/o EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000**

**Appeal Number: 06A-UI-04715-HT
OC: 03/26/06 R: 02
Claimant: Respondent (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)c – Quit/Family

STATEMENT OF THE CASE:

The employer, Swift, filed an appeal from a decision dated April 24, 2006, reference 01. The decision allowed benefits to the claimant, Jesus Espinoza. After due notice was issued, a hearing was held by telephone conference call on May 18, 2006. The claimant participated on his own behalf and Ike Rocha acted as interpreter. The employer participated by Human Resources Manager Jeremy Cook.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Jesus Espinoza was employed by Swift from April 12, 1999 until September 20, 2005. He was a full-time production worker.

In September 2005, the claimant requested time off to go to Mexico because his mother was ill. He had already taken his full 12 weeks of FMLA at that time and no other leave was available to him. He quit on September 20, 2005, and returned to Iowa sometime in February 2006. On March 15, 2006, he filled out another application for employment with Swift but no work was available for him at that time.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is not.

Iowa Code section 96.5-1-c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

The claimant did quit in order to care for an ill family member. He did return to the employer to offer his services when the family medical situation had ended as required by the provisions of the above Code section. As there was no work available to him at that time, he is qualified for benefits effective March 26, 2006.

DECISION:

The representative's decision of April 24, 2006, reference 01, is affirmed. Jesus Espinoza is qualified for benefits, provided he is otherwise eligible.

bgh/kkf