

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MANUEL VASQUEZ AGUILERA**  
Claimant

**APPEAL NO. 11A-UI-12533-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT PORK COMPANY**  
Employer

**OC: 09-04-11  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 22, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 17, 2011. The claimant did participate with the assistance of interpreter Anna Pottebaum. The employer did participate through Aurelino Diaz, Human Resources Manager.

**ISSUE:**

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a rib trimmer production worker full time beginning April 26, 2001 through June 24, 2011 when he voluntarily quit. The claimant went to Mexico to seek treatment for his non-work-related diabetes. He did not present any document from any physician indicating that he had to seek treatment in Mexico as opposed to a doctor in the United States. He did not seek permission or obtain a leave of absence from the employer before leaving the country. The employer did not hear from the claimant after June 24 until September 6 when he returned to the employer and asked to return to work. The claimant was a no-call-no-show for work beginning June 24. The claimant was obligated to report his absences to the employer when they occurred not months later. The employer was not obligated to keep his job for him when he failed to report his absence or obtain or even ask for a leave of absence. The claimant had been given training on the employer's attendance policy.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

Iowa Code § 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(4) 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 § 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 § 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

**DECISION:**

The September 22, 2011, reference 01, decision is affirmed. The claimant voluntarily left employment without 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 benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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