

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FABRIZIO DIAZ
Claimant

APPEAL NO. 10A-UI-00542-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NPC INTERNATIONAL INC
Employer

OC: 11/29/09
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Fabrizio Diaz filed an appeal from a representative's decision dated January 7, 2010, reference 03, which denied benefits based on his separation from NPC International, Inc. After due notice was issued, a hearing was held by telephone on February 22, 2010. Mr. Diaz participated personally. The employer participated by Matt Dickinson, Restaurant General Manager.

ISSUE:

At issue in this matter is whether Mr. Diaz was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Diaz began working for NPC International, Inc., doing business as Pizza Hut, in November of 2007 and last performed services on September 25, 2009. He was employed full time as a delivery cook. He became separated from the employment when he was arrested and confined to jail.

Mr. Diaz was in jail from September 26, 2009 until the third week of November. He had a friend notify the employer of his circumstances. The employer made no promise to hold his job for him. He contacted the employer upon his release from jail but no work was made available to him. Continued work would have been available in September if he had been able to continue working at that time.

REASONING AND CONCLUSIONS OF LAW:

Mr. Diaz lost his job because he was arrested. An individual who leaves employment because of incarceration is presumed to have quit employment without good cause attributable to the employer. 871 IAC 24.25(16). Since there was no other reason for Mr. Diaz' separation, he is denied benefits pursuant to Iowa Code section 96.5(1).

DECISION:

The representative's decision dated January 7, 2010, reference 03, is hereby affirmed. Mr. Diaz quit his employment with Pizza Hut for no good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs