

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RIGOBERTO GONZALEZ

Claimant

APPEAL NO. 07A-UI-03587-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JOHN MORRELL & COMPANY

Employer

**OC: 03/18/07 R: 01
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Rigoberto Gonzalez filed an appeal from a representative's decision dated April 5, 2007, reference 01, which denied benefits based on his separation from John Morrell & Company (Morrell). After due notice was issued, a hearing was held by telephone on April 24, 2007. Mr. Gonzalez participated personally. The employer participated by Brenda Ruhler, Human Resources Administrator. Ike Rocha participated as the interpreter.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Gonzalez was employed by Morrell from June 28, 2004 until March 19, 2007 as a full-time production worker. He was suspended on March 8, 2007 because he disobeyed a directive that he not talk to a specified employee while an investigation was in progress. He was told to return from the suspension on March 13 to discuss his status.

The employer met with Mr. Gonzalez and his union representative on March 13. The union's business agent, Gustavo, participated as an interpreter during the meeting. Mr. Gonzalez was advised that he should return to work the following day, March 14. He was told he was not to take problems with his coworker into his own hands but to notify a supervisor, personnel, or the union if he was having problems. Mr. Gonzalez did not return to work after March 13 and did not contact the employer regarding his intentions. Morrell sent him a letter on March 19 advising that he no longer had employment because he had been absent for three days without notice.

The employer's rules provide that three consecutive unreported absences will be considered a voluntary quit. The employee handbook is available in both English and Spanish. Continued work would have been available for Mr. Gonzalez if he had returned to work as instructed.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that Mr. Gonzalez abandoned his job when he failed to return to work after the meeting of March 13. An interpreter was present, as was a union representative, when Mr. Gonzalez was told he would be allowed to return to work. Because he did not return, his separation is considered a voluntary quit. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1).

An individual who is absent from work for three consecutive days without notice in violation of a known work rule is presumed to have quit for no good cause attributable to the employer. 871 IAC 24.25(4). Mr. Gonzalez has not overcome the presumption. The evidence of record does not establish any good cause attributable to the employer for the quit. Therefore, benefits are denied.

DECISION:

The representative's decision dated April 5, 2007, reference 01, is hereby affirmed. Mr. Gonzalez quit his employment for no 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs