

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MUBARAK S TIEIA
Claimant

APPEAL NO. 08A-UI-10208-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 09/07/08 R: 02
Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Leaving - Requalification

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 24, 2008, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on November 18, 2008. Claimant participated through interpreter Magdy Salama. Employer participated through Tony Luse.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was hired as a full-time production worker and initially worked from May 14, 2007 through June 12, 2008. The last day of work was June 4, 2008. He was a no-call, no-show on June 5, 6, and 9, 2008. Employer's policy considers an unreported absence of three consecutive days a voluntary separation. Employer has no written record of an approved leave period. Claimant went to Canada to visit his mother for three days and spent three days in Seattle before going to work in Alaska. During that period of employment, the administrative combined wage claim records from Trident Seafoods Corporation indicate he earned gross wages of \$785.79 during the second quarter of 2008 and \$4,793.27 in the third quarter of 2008. The claims bureau issued a decision dated October 25, 2008, reference 03 that found claimant had requalified for benefits based upon the June 2008 separation from Swift.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer but has requalified for benefits.

Iowa Code § 96.5-1-g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2) (amended 1998).

Claimant's decision to leave for three months without authorization was disqualifying. However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer (account number 275457) shall not be charged for any benefits paid based upon this separation.

DECISION:

The October 24, 2008, reference 01, decision is modified in favor of the appellant. The claimant quit without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw