

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELIBERTA JIMENEZ DE RODRIGUEZ
Claimant

APPEAL NO. 09A-UI-02450-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 12/07/08
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Eliberta Jimenez de Rodriguez (claimant) appealed a representative's February 10, 2009 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Swift & Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 12, 2009. The claimant participated personally through Angela Arellano, Interpreter. The employer participated by Tony Luse, Employment Manager. Silbano Piedra, the claimant's husband, observed the hearing.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on December 10, 2007, as a full-time production worker. Her shift started at 7:00 a.m. The claimant signed for receipt of the employer's handbook on December 10, 2007. The handbook was in Spanish and English. The handbook contained a policy that stated an employee who did not appear for work or notify the employer of the absence for three days would be considered to have quit work.

On December 3, 2008, the claimant's supervisor verbally commented that the claimant should work harder. The claimant was upset by the comment. She did not appear for work or notify the employer of her absence on December 4, 5, 6 or 8, 2008. On December 8, 2008, at 8:00 a.m. the claimant went to the human resources department. The human resources department told the claimant she was considered to have resigned. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 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) and (28) provide:

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 section 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 section 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.

(28) The claimant left after being reprimanded.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her actions. She stopped appearing and quit work. When an employee quits work after having been reprimanded, her leaving is without good cause attributable to the employer. The claimant left work after having been reprimanded. Her leaving was without good cause attributable to the employer. The claimant was absent from work for at least three days without giving notice to the employer. The employer has a rule that if the employee is absent without notice to the employer for three days the employee is deemed to have voluntarily quit. The claimant is deemed to have voluntarily quit based on her absence from work for at least three days without giving notice to the employer. There is no evidence of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's February 10, 2009 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css