

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELVIN SPIEKER**  
Claimant

**APPEAL NO. 09A-UI-05693-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT & COMPANY**  
Employer

**Original Claim: 12-07-08  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 6, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 7, 2009. The claimant participated in the hearing. Tony Luse, Employment Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time production worker for Swift & Company from January 12, 2009 to March 4, 2009. The claimant was absent February 26, 2009, and called in to let the employer know he would not be in, due to a problem with his truck. He failed to call or show up for work February 27, March 2, and March 3, 2009, and the employer considered him to have voluntarily quit his job. The claimant testified he assumed he would be discharged and also was too ill to call and report his absences. He did not read the employer's attendance policy or recall what was said about the policy during orientation.

**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.

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) 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 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.

While the claimant assumed his employment would be terminated if he was absent another day, he did not call the employer to report his absences. He stated he was too ill to call, but a simple call to the attendance line if an individual feels ill, rather than being incapacitated, does not seem too much to ask. It is difficult to believe that he could not call at least one time during those three days to tell the employer he was ill. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive work days, in violation of the employer's policy, he is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

**DECISION:**

The April 6, 2009, 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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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw