

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICKEY R QUINTERO

Claimant

APPEAL NO. 10A-UI-06492-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP

Employer

Original Claim: 04/04/10

Claimant: Appellant (5)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated April 27, 2010, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 17, 2010. The claimant participated. The employer participated by Jessica Sheppard, human resources associate. The record consists of the testimony of Jessica Sheppard; the testimony of Rickey Quintero; Claimant's Exhibit A; and Employer's Exhibits 1 through 6.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer owns and operates a pork production plant in Wapello County. The claimant was hired as a full-time production worker on April 21, 2008. He was considered to have voluntarily quit his job after failing to call in and report to work on three consecutive workdays. The employer has a written policy that states that if an employee fails to come to work and report his or her absence for three consecutive workdays, that employee is considered to have voluntarily quit. This policy was explained to the claimant at the time that he was hired.

The claimant was scheduled to work on March 2, 2010; March 3, 2010; and March 4, 2010. He did not come to work. He did not report his absence to his employer prior to the start of his shift on these days. The claimant was considered a voluntary quit as of March 4, 2010.

REASONING AND CONCLUSIONS OF LAW:

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence established that the claimant was scheduled work on March 2, 2010; March 3, 2010; and March 4, 2010. He did not report to work and he did not call in to work. The claimant admitted that this was true. His explanation for failing to call in was that he was having personal problems and was contemplating leaving the state. He said that calling in to work was the last thing on his mind. He knew that he was supposed to call in and had no particular reason why he could not have contacted his employer to explain his situation. The claimant is considered under Iowa law to have voluntarily quit his job without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's decision dated April 27, 2010, reference 01, is modified to disqualify the claimant as having voluntarily left his job without good cause attributable to the employer. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw