

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUIS A GARCIA

Claimant

APPEAL NO. 10A-UI-03772-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY

Employer

Original Claim: 01/31/10

Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Luis Garcia filed an appeal from a representative's decision dated March 3, 2010, reference 01, which denied benefits based on his separation from Swift & Company. After due notice was issued, a hearing was held by telephone on April 27, 2010. Mr. Garcia participated personally. The employer participated by Javier Sanchez, Assistant Human Resources Manager. Anna Pottebaum participated as the interpreter.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Garcia began working for Swift on June 15, 2009 and last performed services on December 12, 2009. He was a full-time production worker. He was arrested on December 12 and confined to jail for a month and two weeks. Neither he nor anyone acting on his behalf had contact with the employer while he was in jail. When Mr. Garcia was released from jail, he went to the workplace but his job was no longer available. Continued work would have been available to him as of December 12 if he had been able to report for the work. An individual who is absent from work for three days without notice is considered by the employer to have voluntarily quit.

REASONING AND CONCLUSIONS OF LAW:

Mr. Garcia abandoned his job when he stopped reporting for available work without notice to the employer. Therefore, his separation is considered a voluntary quit. An individual who leaves employment voluntarily 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 for three days without notice in violation of a company rule is presumed to have left employment without good cause attributable to the employer. See 871 IAC 24.25(4). The same is true if an individual leaves work because he is in jail. See 871 IAC 24.25(16).

The evidence of record does not establish any good cause attributable to Swift for Mr. Garcia's separation. As such, he is not entitled to job insurance benefits.

DECISION:

The representative's decision dated March 3, 2010, reference 01, is hereby affirmed. Mr. Garcia left his employment with Swift for no good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw