

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARSENIO R CASTILLO-RAMIREZ
Claimant

APPEAL NO. 13A-UI-07336-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT PORK COMPANY
Employer

OC: 05/05/13
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Arsenio Castillo-Ramirez, filed an appeal from a decision dated June 10, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on July 25, 2013. The claimant participated on his own behalf and Rafael Geronimo acted as interpreter. The employer, Swift, participated by Human Resources Supervisor Luis Meza.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Arsenio Castillo Ramirez was employed by Swift from April 17, 1992 until April 11, 2013 as a full-time general laborer. He was approved for four weeks of vacation to begin December 21, 2012, with a return to work date of January 21, 2013.

As of January 21, 2013, he called in absent from Mexico, due to an injury. He stopped calling in as of March 25, 2013, and was no-call/no-show after that. On March 27, 2013, a letter was sent to his address of record giving him until April 5, 2013, to contact the employer. When he did not respond to that letter he was no-call/no-show for the next three work days, April 8, 9 and 10, 2013. Under company policy he was considered a voluntary quit.

The claimant was not able to call because his cell phone did not get reception where he was in Mexico. He returned to work in late April and was given the opportunity to provide documentation from his physician in Mexico about his medical situation. As of the date of the hearing the employer has not been able to confirm the issue one way or the other from the documents and phone numbers the claimant provided.

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.

The claimant knew the policies and procedures required to properly report any absences. The fact he did not have cell phone reception where he was is unfortunate but a foreseeable consequence of the use of cell phones. It is unclear why he had adequate reception to call some days but not others.

It is also not clear why, when he first began to call in absent due to illness he did not apply for FML or an extended leave of absence which would have removed the requirement to call in every day.

The claimant is considered a voluntary quit under the provisions of the above Administrative Code section and is disqualified.

DECISION:

The representative's decision of June 10, 2013, reference 01, is affirmed. Arsenio Castillo Ramirez is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs