

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALANNA MORROW
Claimant

APPEAL NO. 07A-UI-07869-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 06/24/07 R: 02
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Swift & Company (employer) appealed an unemployment insurance decision dated August 7, 2007, reference 04, which held that Alanna Morrow (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 5, 2007. The claimant participated in the hearing. The employer participated through Tony Luse, Assistant Human Resources Manager. Employer's Exhibits One and Two were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

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 employed as a full-time production worker from June 6, 2007 through June 25, 2007. She was a no-call/no-show for three consecutive workdays ending June 25, 2007 and was considered to have abandoned her job according to company policy. On June 20, 2007, she sustained a minor cut on her right wrist. The incident was described as a "near miss" which did not require first aid and she was allowed to return to work. However, the claimant said she could not return to work.

The claimant filed a claim for unemployment insurance benefits effective June 24, 2007 but has not received benefits after the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment

insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by failing to call or report to work for three consecutive days and never returning to work after that. The law presumes it is a quit without good cause attributable to the employer when an employee is absent for three days without giving notice to the employer in violation of company rule. 871 IAC 24.25(4).

The claimant contends the employer sent her for medical treatment for her laceration on June 20, 2007 and the treating physician did not want her to work around meat. She reports that when she told the employer this information, the employer fired her as it had no light-duty work for her. The claimant's explanation is questionable at best but she failed to offer any supporting documentation which she would have had if she had obtained medical treatment. The administrative law judge gave the claimant until the end of the hearing day to provide medical documentation but none was provided. If a party has the power to produce more explicit and direct evidence than it chooses to do, it may be fairly inferred that other evidence would lay open deficiencies in that party's case. Crosser v. Iowa Department of Public Safety, 240 N.W.2d 682 (Iowa 1976).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated August 7, 2007, reference 04, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. There is no overpayment as a result of this decision.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css