

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA MENDOZA

Claimant

APPEAL NO. 13A-UI-04479-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY

Employer

OC: 12/02/12

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 11, 2013 (reference 03) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on May 20, 2013. Claimant participated through interpreter Rafael Geronimo. Employer participated through human resources assistant Tanya Box. Claimant's Exhibit A was received.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a laborer from 2007 and was separated from employment on October 24, 2012. Claimant was granted FMLA leave for April and May 2012 for unrelated reasons but did not submit paperwork for further leave. Her last day of work was July 10, 2012. She went to Mexico in July 2012, called in to take two weeks' vacation, and called in sick until October 19. She was a no call-no show on October 20, 22, and 23. She had thyroid surgery on October 23, 2012. She was unable to speak for about three weeks because the surgery was on her throat. Her mother called for her on undetermined dates until the employer told her father to stop calling because she was already fired. The treating physician released her to return to work on November 24, 2012 without restrictions. (Claimant's Exhibit A) She did not provide the employer with medical documentation in support of her absence. She reported to the plant on Monday, November 26 and was told again she was no longer employed. The employer's policy provides that no call-no show absences for three consecutive workdays is considered a voluntarily quitting of employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code § 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(20), (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 § 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 § 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to provide medical documentation to support her lengthy absence and did not report, or have someone else call for her, or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The April 11, 2013 (reference 03) decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs