

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TOKO FRUT**  
Claimant

**SWIFT PORK COMPANY**  
Employer

**APPEAL 20A-UI-05924-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/20**  
**Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

On June 11, 2020, Swift Pork Company (employer/appellant) filed an appeal from the June 1, 2020 (reference 02) unemployment insurance decision that allowed benefits.

A telephone hearing was held on July 14, 2020. The parties were properly notified of the hearing. Employer participated by HR Manager Vicky Cervantes. Toko Frut (claimant/respondent) did not register a number for the hearing and did not participate.

Official notice was taken of the administrative record, including claimant's payment history on the unemployment insurance system and the fact-finding worksheet.

**ISSUE(S):**

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?
- II. Was the claimant overpaid benefits? Should claimant repay benefits and/or charge employer due to employer participation in fact finding?
- III. Is the claimant eligible for Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer as a full-time general laborer. Claimant's first day of employment was January 16, 2019. The last day claimant worked on the job was October 18, 2019. Claimant called in sick for several days after that but then had a string of several absences which were unreported. Those occurred on October 29, 30, and 31, 2019. Claimant has not subsequently communicated with employer or attempted to return to work. Under employer's policies, three

consecutive no-call, no-show absences are considered a voluntary quit. Claimant received a copy of this policy.

The unemployment insurance system shows claimant has not received regular benefits or FPUC.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the June 1, 2020 (reference 02) unemployment insurance decision that allowed benefits is REVERSED.

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

Iowa Code section 96.5(1)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25 provides in relevant part:

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 administrative law judge finds claimant voluntarily quit by having three consecutive no-call, no-show absences in violation of company rule. Benefits must be denied.

**DECISION:**

The June 1, 2020 (reference 02) unemployment insurance decision that allowed benefits is REVERSED. Claimant voluntarily quit without good cause attributable to employer. Claimant is disqualified from benefits until she earns insured wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.



---

Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

July 22, 2020  
Decision Dated and Mailed

abd/scn

***Note to Claimant:***

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for regular unemployment insurance benefits but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.