

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUAL C DENG

Claimant

APPEAL NO. 10A-UI-14338-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY

Employer

OC: 08/15/10

Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 8, 2010, reference 02, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on December 2, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Jenny Mora participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full-time for the employer as a production worker from April 3, 1997, to April 2, 2010. The claimant requested and was granted a three-month leave of absence to return to Africa after his wife gave birth but the twin babies died. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled and could be terminated after three days of absence without notice. They are given a phone number to call for absences from work.

The claimant did not report back to work on the expected day of June 28, 2010. He had missed his flight, and did not have the funds to obtain another flight back to the United States. He was also dealing with symptoms of malaria, for which he was receiving medication. He did not call the employer to let them know about his problems because phones are uncommon in the area he was visiting.

The claimant did not return to the Marshalltown area until July 28. He went to the plant on August 2, 2010, but was told that his employment was terminated because he had not reported back to work or contacted the employer about an extension of his leave.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

The unemployment insurance rules state that a claimant absent for three days without giving notice to employer in violation of company rule is presumed to have quit employment without good cause attributable to the employer. 871 IAC 24.25(4). In addition, the rules also state if a person fails to return at the end of the leave of absence, he is considered as having voluntarily quit and therefore is ineligible for benefits. 871 IAC 24.22(2)j(2).

The evidence establishes the claimant was absent from work without notice for over a month in violation of a work rule and that he failed to return to work after his leave expired. The claimant talked about being in Khartoum, the capital of the Sudan, when he missed his plane. He should have used this opportunity to send some communication to his employer. The employer was only obligated to hold his job open during the leave of absence. The claimant's separation from employment must be considered a voluntary quit without good cause attributable to the employer

DECISION:

The unemployment insurance decision dated October 8, 2010, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw