

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARTIN R GONZALEZ
Claimant

APPEAL NO. 09A-UI-17700-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 10/04/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Martin R. Gonzalez filed a timely appeal from an unemployment insurance decision dated October 27, 2009, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held December 14, 2009 with Mr. Gonzalez participating. Employment Manager Tony Luse participated for the employer, Swift & Company. Ann Morris served as interpreter.

ISSUE:

Was the claimant's separation from employment a disqualifying event?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Martin R. Gonzalez was hired by Swift & Company on December 4, 1998. He last worked for the company on October 6, 2009. Mr. Gonzalez was incarcerated between September 28 and October 3, 2009. He did not report to work or contact the employer. He returned to the employer and resumed working even though his ID card had been restricted preventing him from formally clocking in. Mr. Gonzalez was removed from the premises when the employer learned that he had returned. According to company policy three days of absence without contact is viewed as a voluntary quit.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the separation was a disqualifying event. It was.

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.

An individual who becomes unemployed as the result of incarceration is deemed to have left work voluntarily without good cause attributable to the employer. See 871 IAC 24.25(16). Similarly, an individual who becomes unemployed because of three days of absence without contact, in violation of a company rule, is disqualified for benefits. See 871 IAC 24.25(4). The administrative law judge concludes that the claimant became unemployed under circumstances contemplated by these rules. Benefits are withheld.

DECISION:

The unemployment insurance decision dated October 27, 2009, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs