

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MOHAMMED A IBRAHIM
Claimant

APPEAL NO. 12A-UI-06409-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT PORK COMPANY
Employer

OC: 04/22/12
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 23, 2012, reference 03, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on June 26, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Aureliano Diaz 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 janitor from June 30, 2008, to May 17, 2011. The claimant was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify the employer if they were not able to work as scheduled.

The claimant was arrested and jailed for an immigration violation on May 18, 2011. He did not call on May 18 to notify the employer about this absence. He called on May 19 and informed the employer about being in jail. The human resources representative told him that he could apply for work when he got out of jail.

The claimant was in jail for immigration violations related to a domestic violence conviction until April 19, 2012. He contacted the human resource department and was told that his employment was terminated.

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 provide that claimants who leave employment because they have been incarcerated are presumed to have voluntarily quit employment without good cause attributable to the employer. 871 IAC 24.25(16).

In this case, the claimant's incarceration for 11 months is presumed to be a voluntarily quit employment without good cause attributable to the employer. Even if the separation from employment was considered a discharge by the employer, it would be for misconduct since being in jail is not considered an excused reason for being absent from work.

DECISION:

The unemployment insurance decision dated May 23, 2012, reference 03, 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/css