

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SHERRIE A HALE
708 SOUTH AVE
ESSEX IA 51638-3029

PELLA CORPORATION
c/o TALX EMPLOYER SERVICES
PO BOX 1160
COLUMBUS OH 43216-1160

Appeal Number: 06A-UI-03404-CT
OC: 02/19/06 R: 01
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Pella Corporation filed an appeal from a representative's decision dated March 17, 2006, reference 01, which held that no disqualification would be imposed regarding Sherrie Hale's separation from employment. After due notice was issued, a hearing was held by telephone on April 27, 2006. The employer participated by John Smith, Human Resources Representative, and Tammy Oakes, Human Resources Assistant. The employer was represented by Richard Carter of TALX Employer Services. Exhibits One through Four were admitted on the employer's behalf. Ms. Hale responded to the notice of hearing but was not available at the number provided at the scheduled time of the hearing.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Hale began working for Pella Corporation on April 11, 2005, as a full-time assembler. Her last day at work was January 5, 2006. On January 9 and 10, her sister called the employer to report that she would be absent. On January 10, she indicated that Ms. Hale was in the hospital and would be for the remainder of the week. The sister was told she did not have to call in each day for the rest of the week since the employer knew Ms. Hale was in the hospital. The employer was anticipating that she would return to work on Monday, January 16.

Ms. Hale did not return to work on January 16. Neither she nor anyone acting on her behalf contacted the employer. The employer did not hear further from Ms. Hale until January 27 when she called to inquire about her insurance status. When the employer still had not heard from her by February 9, she was notified by mail that she no longer had employment. She confirmed her status in a call to the employer on February 13, 2006. She indicated she had been in the hospital but offered no reason for not contacting the employer. The employer has a written work rule, of which Ms. Hale was aware, that provides three consecutive unreported absences will be considered a voluntary quit.

Ms. Hale has received a total of \$2,352.00 in job insurance benefits since filing her claim effective February 19, 2006.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Hale was separated from employment for any disqualifying reason. The administrative law judge concludes that she abandoned her job when she stopped reporting for work without notifying the employer of her intentions. As of January 10, 2006, she was expected back to work on January 16 based on statements made by her sister to the employer. However, the employer did not hear from Ms. Hale until January 27. She did not speak to a supervisor about her job on this date. She only asked human resources about her insurance coverage. Even after her contact on January 27, Ms. Hale did not contact the employer again until after she received the letter of February 9 in which she was notified that she no longer had a job. Ms. Hale did not respond to telephone messages left by the employer during the time she was off work following January 16. Given her failure to contact the employer or to respond to telephone messages, the administrative law judge must conclude that Ms. Hale did not desire to remain in the employment.

Ms. Hale has not presented any evidence that she lacked the physical or mental ability to contact the employer after her last day of work. If she was able to call the employer on January 27, the administrative law judge must presume she could have done so on other occasions. She did not participate in the hearing to establish a foundation for the medical documents she submitted during the fact-finding interview. For the reasons cited herein, the administrative law judge concludes that Ms. Hale voluntarily quit her employment. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). An individual who is absent for three consecutive days without notice is presumed to have quit without good cause attributable to the employer. 871 IAC 24.25(4).

Inasmuch as the evidence of record does not establish any cause attributable to the employer for the quit, benefits are denied. Ms. Hale has received job insurance benefits since filing her

claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated March 17, 2006, reference 01, is hereby reversed. Ms. Hale voluntarily quit her employment for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Hale has been overpaid \$2,352.00 in job insurance benefits.

cfc/kkf