

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICK D METTEER
Claimant

APPEAL NO. 13A-UI-08621-N

**ADMINISTRATIVE LAW JUDGE
DECISION**

OMAHA STANDARD INC
Employer

OC: 07/07/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

Nick Metteer filed a timely appeal from a representative's decision dated July 24, 2013, reference 01, that denied unemployment insurance benefits. Per the claimant's request, an in-person hearing was scheduled for and held in Council Bluffs, Iowa, on October 17, 2013. The claimant, the appellant herein, did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. The employer participated by Ms. Alyce Smolsky, Hearing Representative and witness, Mr. Tim Brown, Production Supervisor. Official transliterator was retained and available but was not utilized as Mr. Metteer did not appear. Employer's Exhibit One was received into evidence. Based upon the appellant's failure to participate in the hearing, the administrative file and the record, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

At issue in this matter is whether the representative's decision should be affirmed.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The appellant failed to appear at the hearing and did not participate or request a postponement of the hearing as required by the hearing notice.

Nick Metteer was employed by Omaha Standard, Inc. from April 17, 1998 until June 19, 2013 when he quit his employment without advance notice. Mr. Metteer was employed as a lead production worker and was paid by the hour. His immediate supervisor was Tim Brown. Mr. Metteer left his employment on June 19, 2013, signing a resignation letter stating only that he was leaving "for another job." Although the claimant was given space for additional comments, Mr. Metteer added none. Mr. Metteer had taken one-half day off work on Friday, June 7, 2013 and had approved time off from Monday, June 10, 2013 through Friday, June 14, 2013. The claimant was expected to return to work on June 17, but did not do so. The claimant did not report or provide notification to the employer of his impending absences on June 17 or 18 and resigned on June 19, 2013.

Prior to leaving employment Mr. Metteer had expressed some dissatisfaction after receiving a warning about violating company policy by his use of a cell phone on the production floor. The claimant's complaint was considered by the employer and it was determined that the employer was equally applying prohibition of cell phone use to all employees in an equal way.

The administrative law judge has conducted a careful review of the administrative file to determine whether the unemployment insurance decision should be affirmed.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

The administrative law judge has carefully reviewed the available evidence in the administrative file and in the hearing record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed.

The claimant left his employment without advance notice stating he was leaving to take a new job. Prior to leaving employment the claimant did not complain that he was going to leave employment because of any job dissatisfactions. The claimant had been previously upset because he had been issued a warning for violating the company's policy which prohibited cell phone use on the production floor. The employer reviewed the claimant's complaint and determined that the rule was being equally applied to all workers. Agency records do not show

that the claimant previously secured another job before leaving his employment with Omaha Standard, Inc.

Pursuant to the rule, the appellant must make a written request to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the beginning of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

DECISION:

The unemployment insurance decision dated July 24, 2013, reference 01, is affirmed. The representative's decision remains in effect. The claimant is disqualified from receiving unemployment insurance benefits until he has worked in and been paid for insured work equal to ten times his weekly benefit amount and meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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