

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REGINA L WALLACE
Claimant

APPEAL NO. 11A-UI-07400-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NSK CORPORATION
Employer

**OC: 05/01/11
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

NSK Corporation filed a timely appeal from an unemployment insurance decision dated May 27, 2011, reference 01, that allowed benefits to Regina L. Wallace. After due notice was issued, a telephone hearing was held June 29, 2011 with Ms. Wallace participating. Human Resources Administrator Lynda Swanson participated for the employer. Employer Exhibit One was admitted into evidence. The administrative law judge takes official notice of agency benefit payment records.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Regina L. Wallace was hired by NSK Corporation as a machine operator on September 6, 2005. The employment ended May 5, 2011. Ms. Wallace had not actually worked since July 15, 2010 due to complications with her pregnancy. She received first short-term disability payments and then long-term disability.

The employer's insurance carrier, The Standard Benefit Administrators, sent a letter to Ms. Wallace on March 31, 2011 advising her that her long-term disability would end May 1, 2011 and that she should provide medical documentation if she were unable to return to work after that date. Ms. Wallace also spoke by telephone with the author of the letter, James G. Breen. Ms. Wallace sent no documentation to The Standard and she did not contact NSK further about returning to work.

Ms. Wallace was scheduled to work beginning May 2, 2011. She neither reported to work nor contacted the employer. Ms. Wallace had received a copy of the company policy providing that three days of absence without contact is considered a voluntary quit.

Ms. Wallace has not received any benefits since filing a claim during the week of May 1, 2011.

REASONING AND CONCLUSIONS OF LAW:

The larger question is whether the separation from employment was a disqualifying event. Although the fact-finding decision considered it a discharge, the employer argued that it should be considered a voluntary quit because of the policy referred to in the Findings of Fact. The administrative law judge agrees with that characterization.

Iowa Code § 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.

The claimant has the burden of proof in cases involving voluntary quits. See Iowa Code § 96.6-2. An individual who is absent for three days without notifying the employer, in violation of a company rule, is considered to have left work voluntarily without good cause attributable to the employer. See 871 IAC 24.25(4). The administrative law judge concludes that Ms. Wallace became unemployed under circumstances contemplated by the rule.

The claimant's testimony was in part contradictory. Early in her testimony Ms. Wallace referred to speaking to Mr. Breen and talked about the contents of the March 31 letter. Only later in testimony did she assert that she had not received the March 31 letter until she received the letter from the employer advising her that her employment had ended. The claimant has not persuaded the administrative law judge that she was in fact unaware of her requirement to provide additional medical documentation, return to work or at least notify the employer of the need for continued absence. The claimant abandoned her job due to her failure to return to work or maintain contact. Benefits are withheld.

The administrative law judge need not consider the issue of repayment of benefits since Ms. Wallace has received none during her present benefit year.

DECISION:

The unemployment insurance benefits dated May 27, 2011, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs