

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NARVEL A PARTEE
Claimant

APPEAL NO. 07A-UI-09520-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOC SERVICES LLC
Employer

OC: 10/01/06 R: 03
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Narvel Partee filed an appeal from a representative's decision dated October 2, 2007, reference 03, which denied benefits based upon her separation from IOC Services LLC. After due notice was issued, a telephone conference hearing was conducted on October 24, 2007. Ms. Partee participated personally. The employer participated by Ann Alpart, human resource manager, and Lacinda Lappla, supervisor.

ISSUE:

At issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant worked for this employer from July 16, 2007, until September 2, 2007, when she failed to report for scheduled work or provide the required notification for three or more consecutive work shifts. Ms. Partee was employed as a full-time dishwasher and was paid by the hour. Her immediate supervisor was Lacinda Lappla.

The claimant discontinued reporting for scheduled work after September 1, 2007. The claimant had been sent home due to slow business on or about September 1, 2007, but was aware that she was scheduled to work her regular shift thereafter. Although scheduled to work, the claimant did not report for work and did not call the number required by the employer to inform the employer that she would not be reporting for scheduled work. Ms. Partee was aware of the designated telephone number that she was required to call and had called in on numerous occasions in the past. The claimant had also been provided the personal cell phone number of her immediate supervisor, Ms. Lappla. Ms. Lappla received no telephone calls from the claimant during the period in question.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes, based upon the evidence in the record, that the claimant's separation from employment occurred after the claimant failed to report for scheduled work on three or more consecutive occasions and did not provide notification to the employer as required. The evidence establishes that Ms. Partee was aware of the telephone number that she was required to call to report impending absences and the claimant had called that number several times in the past

to report absences. Although aware of the number that the claimant was required to call to report absences, she did not do so. The claimant also did not make contact with her immediate supervisor to report her impending absences. After the claimant failed to report for scheduled work on three or more consecutive occasions, the employer reasonably concluded that the claimant had chosen to relinquish her position with the company.

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 24.25(4) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

For the reasons stated herein, the administrative law judge finds that the claimant voluntarily left employment for reasons that are disqualifying. Benefits are withheld.

DECISION:

The representative's decision dated October 2, 2007, reference 03, is hereby affirmed. The claimant quit work for reasons that were not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw