

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

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Appeal Number: 04A-UI-08358-SWT
OC: 07/04/04 R: 12
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 96.5-1 - Voluntary Quit
Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated July 21, 2004, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on August 24, 2004. The parties were properly notified about the hearing. The claimant failed to provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Nick Statler participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked for the employer as a production worker from September 2, 2003, to February 23, 2004. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as

scheduled and were considered to have voluntarily quit employment after three days of absence without notice to the employer.

The claimant left work early on February 23, 2004. She was scheduled to work on February 24, 25, 26, and 27, but she failed to report to work or notify the employer regarding her absences. The employer, therefore, considered the claimant to have voluntarily quit employment under its work rules.

The claimant filed a new claim for unemployment insurance benefits with an effective date of July 4, 2004. The claimant filed for and received a total of \$1,758.00 in unemployment insurance benefits for the weeks between July 4 and August 14, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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.

Since the claimant was absent from work for three days without notice to the employer in violation of a work rule, she is deemed to have voluntarily quit employment without good cause attributable to the employer.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in

good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid \$1,758.00 in unemployment insurance benefits for the weeks between July 4 and August 14, 2004.

DECISION:

The unemployment insurance decision dated July 21, 2004, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant was overpaid \$1,758.00 in unemployment insurance benefits, which must be repaid.

saw/pjs