

notify the employer if they were not able to work as scheduled and would be considered to have voluntarily quit employment after three days of absence without notice to the employer.

The claimant was absent without notice to the employer on December 13, 14, and 15, 2004. The employer considered the claimant to have voluntarily quit employment by abandoning her job. Continuing work was available for the claimant if she had reported to work as scheduled.

The claimant filed a new claim for unemployment insurance benefits with an effective date of September 11, 2005. The claimant filed for and received a total of \$1,236.00 in unemployment insurance benefits for the weeks between September 11 and October 22, 2005.

#### 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.

The claimant was absent from work for three business dates without notice in violation of a known work rule. She is considered 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.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid \$1,236.00 in unemployment insurance benefits for the weeks between September 11 and October 22, 2005.

DECISION:

The unemployment insurance decision dated September 29, 2005, 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 \$1,236.00 in unemployment insurance benefits, which must be repaid.

saw/kjw