

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARAH A RIGGAN
Claimant

APPEAL NO. 07A-UI-03031-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NPC INTERNATIONAL INC
Employer

**OC: 02/25/07 R: 02
Claimant: Respondent (2)**

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 March 19, 2007, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on April 10, 2007. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Robin Venenga participated in the hearing on behalf of the employer with a witness, Tara McNear.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?
Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

The claimant worked part-time as a cook for the employer from February 8, 2006, to February 14, 2007. The claimant was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify the employer three hours before the start of the shift if they were not able to work as scheduled.

The claimant reported to work on the morning of February 14. She called the manager a short time later and reported that she was a mess and needed to go home. The manager came in and replaced the claimant who was gone by the time the manager arrived.

Later in the day, the manager contacted the claimant who reported that she had gone to the doctor and had been diagnosed with an anxiety attack. The claimant reported that she would not be returning to work until February 16. The manager told the claimant to take care of herself and she would see her on February 16.

The claimant was scheduled to work on February 16, February 19, and February 20, 2007. The claimant was absent from work without notice to the employer on each day. The claimant came into the restaurant on February 21 with an employment verification form from the department of human services for the manager to complete to indicate why the claimant's employment had

ended. The manager was not available so the shift supervisor spoke to the claimant. The claimant asked the shift supervisor to check terminated on the form. The shift supervisor did so but was unaware of the claimant's abandonment of her job.

The claimant filed for and received a total of \$519.00 in unemployment insurance benefits for the weeks between February 25 and March 17, 2007.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The claimant did not report back to work on February 16, which was the date that she indicated she would be able to work again. She missed work that day and missed at least two other scheduled days of work afterwards without any notice to the employer. Although the shift supervisor mistakenly checked terminated on the employment verification form, the evidence is clear that the claimant abandoned her job by missing work without notice to the employer. The separation must be treated as a voluntary quit. She quit employment, and the evidence fails to establish good cause attributable to the employer for quitting.

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

Iowa Code § 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 \$519.00 in unemployment insurance benefits for the weeks between February 25 and March 17, 2007.

DECISION:

The unemployment insurance decision dated March 19, 2007, 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 \$519.00 in unemployment insurance benefits, which must be repaid.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css