

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADINA G CROY
Claimant

APPEAL NO. 08A-UI-04118-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IAC IOWA CITY LLC
Employer

**OC: 09/30/07 R: 03
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 April 17, 2008, reference 03, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on May 12, 2008. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Morene Welch participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

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 full time for the employer as a production worker from August 8, 2005, to February 5, 2008. 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 would be considered to have voluntarily quit after three days of absence without notice to the employer.

The claimant was scheduled to work on February 7, 8, and 11, 2008. She was absent each day without notice to the employer. She did not return to work or contact the employer afterward. On February 19, the human resources manager sent the claimant a certified letter informing her that the employer considered her employment to be terminated under its attendance policy effective February 11 based on her three days of unreported absence.

The claimant filed an additional claim for benefits with an effective date of March 9, 2008. The claimant filed for and received a total of \$1,735.00 in unemployment insurance benefits for the weeks between March 9 and April 12, 2008.

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.

Under the unemployment insurance rules, a claimant is presumed to have voluntarily quit employment without good cause attributable to the employer after three days of absence without notice to the employer in violation of a company rule. 871 IAC 24.25(6).

Based on this rule and the fact that the claimant did not report to work or contact the employer again after February 5, she is disqualified because she 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 effective February 11, 2008, and was overpaid \$1,735.00 in unemployment insurance benefits for the weeks between March 9 and April 12, 2008.

DECISION:

The unemployment insurance decision dated April 17, 2008, reference 03, 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 \$1,735.00 in unemployment insurance benefits, which must be repaid.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw