

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARICELA NEGRETE
Claimant

APPEAL NO. 14A-UI-00092-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**COLOR INK CORPORATION
DALLAS JOHNSON GREENHOUSE**
Employer

**OC: 10/27/13
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Maricela Negrete filed a timely appeal from the December 26, 2013, reference 01, decision that disqualified her for unemployment insurance benefits. After due notice was issued, a hearing was held on January 28, 2014. Ms. Negrete did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. D'Lyn Burns represented the employer. The administrative law judge took official notice of the Agency's administrative record (DBRO and Clear2There Hearing Control Screen) that documents the claimant's failure to provide a number for the appeal hearing.

ISSUE:

Whether Ms. Negrete's voluntary quit was for good cause attributable to the employer. It was not.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Maricela Negrete was employed by Color Ink Corporation/Dallas Johnson Greenhouse as a full-time seasonal laborer from May 10, 2013 until May 16, 2013, when she voluntarily quit without notice. Ms. Negrete's work hours were 8:00 a.m. to 5:00 p.m. After Ms. Negrete worked on May 16, 2013, she did not return to work or make further contact with the employer. After Ms. Negrete was absent without notifying the employer for consecutive shifts on May 17, 20 and 21, 2013, the employer deemed her to have voluntarily quit the employment. The employer has a written no-call, no-show policy that deems three consecutive no-call, no-show absences to be a voluntary quit. The employer had provided Ms. Negrete with a copy of the policy during the employment.

REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record indicates that Ms. Negrete voluntarily quit without good cause attributable to the employer by failing to appear for work or make further contact with the employer after May 16, 2013 and by being absent without notifying the employer for three consecutive shifts in violation of the employer's policy. Ms. Negrete is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits.

DECISION:

The Agency representative's December 26, 2013, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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