

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

JAMES A MONTHY
3054 MIDDLE SATTRE RD
DECORAH IA 52101

FEATHERLITE MANUFACTURING
CORPORATE OFFICES
HWY 63 & 9
PO BOX 320
CRESCO IA 52136-0320

Appeal Number: 04A-UI-10419-AT
OC: 08-29-04 R: 04
Claimant: Appellant (1)

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 96.5-1a – Quit for Other Employment

STATEMENT OF THE CASE:

James A. Monthy filed a timely appeal from an unemployment insurance decision dated September 16, 2004, reference 01, which disqualified him for benefits. After due notice was issued, a telephone hearing was held on October 22, 2004 with Mr. Monthy participating. Human Resources Associate Tammy Henderson participated for the employer, Featherlite Manufacturing.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: James A. Monthy was employed by Featherlite Manufacturing from March 20, 2000 until he resigned August 31, 2004 to take employment with McNeilus. He began work with McNeilus on September 13, 2004 and is still employed. He filed a claim for benefits effective August 29, 2004 because McNeilus moved back his start date.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Monthy is eligible for unemployment insurance benefits between his jobs for Featherlite and McNeilus. He is not.

Iowa Code Section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The evidence in this record establishes that Mr. Monthy filed his claim for benefits between the two jobs. The statute requires that an individual actually performs services for the new employer before the provisions of the statute apply. Under these circumstances, Mr. Monthy is not eligible for benefits for the weeks in question.

DECISION:

The unemployment insurance decision dated September 15, 2004, reference 01, is affirmed. The claimant is ineligible for unemployment insurance benefits between jobs with Featherlite Manufacturing and McNeilus.

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