

**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**

**JANE M OLBERDING
775 – 160TH ST
KANAWHA IA 50447**

**EATON CORPORATION
% TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283**

**Appeal Number: 04O-UI-10594-CT
OC: 07/04/04 R: 02
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(1) – Voluntary Quit

STATEMENT OF THE CASE:

Jane Olberding filed an appeal from a representative's decision dated July 29, 2004, reference 01, which denied benefits based on her separation from Eaton Corporation. After due notice was issued, a hearing was held by telephone on August 23, 2004. The decision of the administrative law judge dated August 27, 2004 affirmed the disqualification from benefits. Ms. Olberding filed a further appeal with the Employment Appeal Board which, on September 27, 2004, remanded the matter for a new hearing because the tape of the prior hearing could not be transcribed.

Pursuant to the remand, due notice was issued scheduling the matter for a telephone hearing on October 21, 2004. Ms. Olberding participated personally. The employer did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Olberding was employed by Eaton Corporation from February 7, 2003 until May 27, 2004 as a full-time machine operator. Approximately three weeks prior to May 27, 2004, she requested and was granted permission to have May 30 and 31 off. On May 27, her supervisor advised her that she could not have either day off as they were behind in work. Ms. Olberding asked whether she could have just one of the days off. The supervisor responded by raising his voice and reiterating that she would have to work both days because her services were needed. Ten minutes later, Ms. Olberding walked off the job.

Ms. Olberding did not attempt to contact anyone over her supervisor or the human resources office to try to resolve the issue. She did not report for work or call on May 28, 29, or 30. On June 1, she went to the human resources office. The individual there, Terry, indicated she did not have time to talk with Ms. Olberding but neither attempted to schedule a specific meeting time.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Olberding was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Olberding had the burden of proving that her quit was for good cause attributable to the employer. Iowa Code section 96.6(2). She quit because approval to have days off was withdrawn and because her supervisor raised his voice to her. Ms. Olberding had the opportunity between May 27 and May 30 to try to resolve the issue of her request for time off. She made no attempt to contact anyone to have her supervisor's decision overturned before May 30 so that she could have that day and/or May 31 off as originally planned. Therefore, she deprived the employer of the opportunity to correct the situation before she quit.

Ms. Olberding also quit because of the treatment she received from her supervisor when she questioned whether she could have one of the requested days off. The administrative law judge does not doubt that the supervisor raised his voice to her. However, this was an isolated instance of such conduct on the part of the supervisor towards Ms. Olberding. She likewise failed to give the employer an opportunity to address this problem before quitting. It does not appear that the supervisor's conduct was so outrageous as to justify quitting without first allowing the employer an opportunity to take corrective action.

After considering all of the evidence, the administrative law judge concludes that Ms. Olberding has failed to establish that she had good cause attributable to the employer for quitting. Accordingly, benefits are denied.

DECISION:

The representative's decision dated July 29, 2004, reference 01, is hereby affirmed. Ms. Olberding voluntarily quit her employment for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/kjf