

**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**

**MIRIAM L RAND  
304 W WILLIAMS APT 1  
DUNKERTON IA 50625**

**BEEF PRODUCTS INC  
891 TWO RIVERS DR  
DAKOTA DUNES SD 57049-5150**

**Appeal Number: 04A-UI-04160-DWT  
OC 03/14/04 R 03  
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, 4<sup>th</sup> 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 are 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Miriam L. Rand (claimant) appealed a representative's April 6, 2004 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Beef Products, Inc. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 6, 2004. The claimant participated in the hearing. Charlene Schuman, Rick Wood and Jennifer Stubbs appeared on the employer's behalf. During the hearing, Claimant's Exhibit A was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on August 10, 1994. She worked full time as a vat dump operator. The employer's facility is kept between 40 and 45 degrees. The employer tests ammonia levels two times a day. The tests indicate the ammonia level at the employer's facility is lower than the level that is acceptable by industry standards.

During the claimant's employment, she experienced some medical problems. In 2002 the claimant learned she had osteoarthritis in her knees. The claimant went up and down about 12 steps three times a day. The pain the claimant experienced from her knees increased, but she did not ask the employer to make any accommodations. The employer could have had the claimant go through another entrance so she claimant would not have had to go up and down any steps.

The employer knew the claimant previously had heart problems, but did not realize the claimant had any breathing problems. Since May 2003, the claimant talked about retiring. The claimant did not retire because she did not receive enough money from social security. The claimant asked the employer if she could work part-time to supplement her social security, but the employer did not want or a need a part-time employee.

In March 2004, the claimant developed bronchitis. She attributed her bronchitis to the cold working environment and she believed she inhaled too much ammonia at work. On March 18, the claimant's doctor prescribed an inhaler for her. The claimant concluded her employment aggravated her medical problems and she did not want her health to deteriorate any more. On March 18, 2004, the claimant resigned because she could not continue to work feeling as bad as she did.

The claimant is currently looking for part-time work to supplement her social security. The claimant's treating physician opined the claimant was unable to continue her employment because the working environment aggravated her health problems.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits without good cause attributable to the employer. Iowa Code §96.5-1. The claimant voluntarily quit her employment on March 18, 2004. When a claimant quits, she has the burden to establish she quit with good cause. Iowa Code §96.6-2.

The law presumes a claimant has quit with good cause when she is compelled to leave employment because the employment aggravates a health condition that makes it impossible for a claimant to continue to work because of a serious danger to the claimant's health. To be eligible to receive benefits under this provision a claimant must present competent evidence showing adequate health reasons to justify termination and before quitting the claimant must tell the employer about the work-related health problems and she intends to quit unless the employer makes reasonable accommodations. 871 IAC 24.26(6)(b).

The evidence indicates the employment may have aggravated some of the claimant's health conditions. The claimant did not, however, inform the employer she might quit if some accommodations were not made. Given an opportunity, the employer could have made some accommodations, which may have been enough to prevent the claimant from quitting. The claimant did not meet the requirements of 871 IAC 24.26(6)(b).

The evidence suggests the claimant quit because she retired. Since May 2003, the claimant talked about retiring and is currently only looking for part-time work to supplement her social security. When the claimant quit, the employer understood she had retired. The claimant's reasons for quitting, retiring and health concerns constitute compelling personal reasons for quitting. For unemployment insurance benefits, these reasons do not qualify the claimant to receive unemployment insurance benefits. As of March 14, 2004, the claimant is not qualified to receive unemployment insurance benefits.

**DECISION:**

The representative's April 6, 2004 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of March 14, 2004. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/kjf