

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

JOHN R WHITE
2548 – 155TH AVE
OTTUMWA IA 52501

EXCEL CORPORATION
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-05015-CT
OC: 04/10/05 R: 03
Claimant: Respondent (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:

Excel Corporation filed an appeal from a representative's decision dated April 28, 2005, reference 01, which held that no disqualification would be imposed regarding John White's separation from employment. After due notice was issued, a hearing was held by telephone on June 15, 2005. Mr. White participated personally. The employer participated by Mindy Ming, Assistant Human Resources Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. White was employed by Excel from June 29, 1998 until

April 11, 2005 as a full-time cryovac mechanic. He voluntarily quit the employment because he felt he was being harassed by his supervisor, Jack Dignin.

Mr. White did not have any problems at work prior to August of 2004 when Mr. Dignin became his supervisor. One of the problems Mr. White had was that Mr. Dignin would not accept work orders because he wanted additional information on them. Mr. White was completing them in the manner in which he had been trained and had always prepared them. Mr. White also felt Mr. Dignin was asking him to perform work in an unsafe manner. In February or March of 2005, he was asked to work on sonic blowers located approximately 20 feet in the air. The only way to get to the blowers was with an extension ladder. Mr. White felt this was unsafe as there was nothing to tie the ladder onto and refused to work on the blowers while they were in the air. He was not disciplined for his refusal.

Mr. White was hired to work as a cryovac mechanic. However, Mr. Dignin assigned additional work of performing preventative maintenance on other machines. There was more work than he could accomplish in the time given. Mr. White complained to management on at least three occasions about Mr. Dignin. Conditions would improve for a time after the complaints but Mr. Dignin would revert to his former behavior. Mr. White put Excel on notice that he would quit if the problems continued. When there was no permanent and consistent resolution of his complaints, he quit on April 11, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. White 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). Mr. White quit because he felt he was being harassed by his supervisor. The evidence failed to establish that he was, in fact, harassed on the job. The evidence failed to establish that the additional information requested on work orders by Mr. Dignin was unwarranted. Although Mr. White was asked to perform an unsafe act, he was not disciplined when he refused.

The administrative law judge concludes from all of the evidence that there was a substantial change in the terms and conditions of Mr. White's employment. He was hired to work as a cryovac mechanic but was being assigned work for which he was not hired to perform. The additional work consisted of performing preventative maintenance on other machines. The additional duties required him to work harder in order to have machines operational for production. He complained about the additional duties but there was no long-term resolution of his concerns. The change in his job duties constituted good cause attributable to the employer for quitting. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated April 28, 2005, reference 01, is hereby affirmed. Mr. White voluntarily quit his employment with Excel for good cause attributable to the employer. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/sc