

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

MEECIE F TAYLOR  
2696 OWEN CT APT 6  
DUBUQUE IA 52002-1028

METRIX COMPANY IOWA  
4400 CHAVENELLE RD  
DUBUQUE IA 52002

Appeal Number: 06A-UI-04657-RT  
OC: 04/02/06 R: 04  
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, 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 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quitting  
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer, Metrix Company Iowa, filed a timely appeal from an unemployment insurance decision dated April 26, 2006, reference 01, allowing unemployment insurance benefits to the claimant, Meecie F. Taylor. After due notice was issued, a telephone hearing was held on May 17, 2006, with the claimant participating. Karen Smith, Human Resources Manager, participated in the hearing for the employer. Employer's Exhibits One and Two were admitted into evidence. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, including Employer's Exhibits One and Two, the administrative law judge finds: The claimant was employed by the employer as a production and assembly worker from November 4, 2004, until she voluntarily quit on March 15, 2006. On that day the claimant walked out in the middle of her shift and never returned to the employer and offered to go back to work. At that time the claimant was assigned to work on a particular machine which caused blisters on her hands. The claimant expressed concerns to her direct supervisor, Kerri, about her blistered hands but Kerri just told the claimant to do the best she could. Later, Kerri came by and told the claimant that she needed to work faster. At the time the claimant had significant blisters on her hands requiring eight band aids and the claimant even was wearing double gloves but was still having problems. The claimant did not specifically ask to be relieved from the machine but when she was told to speed up, the claimant told Kerri that she could no longer do this anymore and left. The claimant had spoken to Kerri on prior occasions about her hands and the difficulties caused by the machine, but nothing was specifically done by Kerri. Sometime in the past the claimant had mentioned this matter to Karen Smith, Human Resources Manager, who at that time was able to have the claimant removed from working on that machine at least for a period of time. The claimant had been working on that machine for six days, but not consecutively. However, when the claimant was assigned to that machine the claimant was expected to work the entire shift on that machine.

The claimant testified that she also left because of "harassment" from another supervisor, Cindy Schultz. In support of harassment the claimant testified that Ms. Schultz, during exercises in November of 2004, asked the claimant to run exercises in a sarcastic way. The claimant also testified that on one occasion the claimant and a co-worker were talking about things not involving work and Ms. Schultz asked if the two of them needed something. The claimant believed that Ms. Schultz had told a third supervisor, Rose, about this and Rose came out and said that if they said anything more they would be put on indexes. However, there was no evidence that Ms. Schultz had said anything to Rose to make her do this. The claimant also testified that Ms. Schultz thought she had gum one day and asked the claimant to open her mouth and checked for gum. Gum was prohibited by the employer. The claimant also testified that on one occasion she was made to perform a job requiring her to sit at a table for five days facing the wall. However, the claimant was not promised any particular job and was asked to perform a number of jobs as were the other employees. The claimant expressed concerns on several occasions to Ms. Smith about Ms. Schultz and Ms. Smith worked to resolve those problems and when Ms. Smith would check with the claimant the claimant would say that things were better. The employer has a policy at Employer's Exhibit Two prohibiting harassment and providing for remedies for such harassment. The claimant did not use such processes. Ms. Schultz did participate in the evaluation of the claimant as shown at Employer's Exhibit One which was basically favorable. Pursuant to her claim for unemployment insurance benefits filed effective April 2, 2006, the claimant has received unemployment insurance benefits in the amount of \$1,176.00 as follows: \$168.00 per week for seven weeks from the benefit week ending April 8, 2006 to the benefit week ending May 20, 2006.

#### REASONING AND CONCLUSIONS OF LAW:

The questions presented by this appeal are as follows:

1. Whether the claimant's separation from employment was a disqualifying event. It was not.

2. Whether the claimant is overpaid unemployment insurance benefits. She is not.

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 24.26(2)(3)(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

(3) The claimant left due to unlawful working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

The parties agree, and the administrative law judge concludes, that the claimant left her employment voluntarily on March 15, 2006. The issue then becomes whether the claimant left her employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that she left her employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has met her burden of proof to demonstrate by a preponderance of the evidence that she left her employment with the employer herein with good cause attributable to the employer. The claimant gave two basic reasons for her quit; the condition of her hands when required to operate on a certain machine including blisters and band-aids and harassment from a supervisor, Cindy Schultz. The administrative law judge concludes that the claimant has demonstrated by a preponderance of the evidence that being forced to work on a certain machine causing blisters on her hands did make her working conditions unsafe, intolerable, and detrimental and perhaps unlawful. However, the administrative law judge is constrained to conclude that the claimant has not demonstrated by a preponderance of the evidence that her "harassment" by Ms. Schultz made her working conditions, unsafe, unlawful, intolerable or detrimental.

Concerning the condition of the claimant's hands as a result of operating the machine, the administrative law judge concludes that the claimant has demonstrated by a preponderance of the evidence that operating that machine caused serious problems to her hands, including blisters requiring band aids. The claimant credibly testified that on the day in question, March 15, 2006, that she had eight band aids on her hands covering blisters and that she was double gloved but still having problems. The claimant expressed concerns to a supervisor, Kerri, who told the claimant to do the best she could. Later, Kerri came to the claimant and told her that she had to go faster because her count was down. The claimant did not feel that she could increase her work in view of the condition of her hands and told Kerri that she could not do this anymore and left. The employer's witness, Karen Smith, seemed to concede, albeit reluctantly, that operating this machine could cause substantial blisters. She testified that employees are provided gloves so as to protect from blisters but this indicates that that machine does cause or can cause serious blisters, which supports the claimant's testimony. Although

the claimant testified that she was on the machine seven or eight days, there is no evidence that those days were continuous but there was evidence that when the claimant was assigned to the machine she worked the full shift at that machine. If the machine can cause blisters and, in the case of the claimant, did cause blisters, the administrative law judge does not understand why the employer could not put another worker on the machine for part of the shift. There is evidence that other workers could operate that machine. The claimant testified that she had continuing problems with her hands and had expressed concern to Kerri before about this as well as to Ms. Smith in human resources. On a couple of occasions the claimant was removed from the job so her hands could heal. The administrative law judge believes that the claimant could, and should, have been removed from that job and assigned another one on March 15, 2006. Since the claimant was not, the administrative law judge concludes that forcing the claimant to work on that machine and then asking the claimant to pickup her pace made the claimant's working conditions unsafe, intolerable, and detrimental and perhaps unlawful and was good cause attributable to the employer for the claimant's quit.

Concerning the claimant's allegations of harassment by her supervisor, the administrative law judge concludes that the claimant has not demonstrated by a preponderance of the evidence that her supervisor harassed her. The examples of harassment given by the claimant are set out in the Findings of Fact. The administrative law judge is constrained to conclude that these examples are for the most part minor and do not establish that the claimant's working conditions were made so unsafe, unlawful, intolerable or detrimental by these actions as to justify the claimant's quit for those reasons. There is also no evidence that the claimant was subjected to a substantial change in her contract of hire. The administrative law judge notes that the claimant's supervisor participated in a performance evaluation as shown at Employer's Exhibit One which is basically favorable to the claimant. Further, the employer has a policy providing for anti-harassment as shown at Employer's Exhibit Two but the claimant did not avail herself of this policy. It is true that the claimant had expressed concerns to Ms. Smith about her supervisor on a couple of occasions but Ms. Smith attempted to work out the claimant's problems and the claimant would thereafter say that things were better. To the extent that the claimant had problems with her supervisor, the administrative law judge concludes that the employer did address those concerns. Accordingly, the administrative law judge concludes that the claimant's relationship and treatment by her supervisor did not make her working conditions unsafe, unlawful, intolerable or detrimental and therefore her quit for those reasons was without good cause attributable to the employer. However, as noted above, the claimant's required operation of a machine causing blisters did make her working conditions unsafe, intolerable, and detrimental and perhaps unlawful.

In summary, and for all the reasons set out above, the administrative law judge concludes that the claimant left her employment voluntarily on March 15, 2006 with good cause attributable to the employer and, as a consequence, she is not disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are allowed to the claimant, provided she is otherwise eligible.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge concludes that the claimant has received unemployment insurance benefits in the amount of \$1,176.00 since separating from the employer herein on or about March 15, 2006 and filing for such benefits effective April 2, 2006. The administrative law judge further concludes that the claimant is entitled to these benefits and is not overpaid such benefits.

DECISION:

The representative's decision of April 26, 2006, reference 01, is affirmed. The claimant, Meecie F. Taylor, is entitled to receive unemployment insurance benefits, provided she is otherwise eligible, because she left her employment voluntarily with good cause attributable to the employer. As the result of this decision, the claimant is not overpaid any unemployment insurance benefits arising out of her separation from the employer herein.

cs/pjs