

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

NANCY J PALMER
1980 NW 166TH AVE
SLATER IA 50244

QUICK PIT EXPRESS LUBE LTD
102 S ANKENY BLVD
ANKENY IA 50021

Appeal Number: 06A-UI-00292-HT
OC: 11/27/05 R: 02
Claimant: Appellant (4)

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)a – Quit/Other Employment

STATEMENT OF THE CASE:

The claimant, Nancy Palmer, filed an appeal from a decision dated December 29, 2005, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 25, 2006. The claimant participated on her own behalf. The employer, Quick Pit Express Lube, Inc., did not provide a telephone number where a representative could be contacted and did not participate.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Nancy Palmer was employed by Quick Pit from November 1, 2003 until August 5, 2005. She was a full-time lube technician.

Ms. Palmer had been offered a job with American Radiator on or about July 27, 2005. She accepted the job and was told she had to first come in and fill out an application. On August 5, 2005, she gave a verbal resignation to Manager Matt Minor. Owner Kendall Sather called her later and offered her job back, but she declined. The claimant began working for the new employer on August 27, and was laid off for lack of work on October 5, 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she 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 claimant had many complaints and concerns about her the store manager, but the reason she elected to resign at the time she did was to accept a new job, which she did accept. She worked for the new employer until she was laid off. Under the provisions of the above Code section the claimant is qualified for benefits but the employer's account will not be charged.

DECISION:

The representative's decision of December 29, 2005, reference 02, is modified in favor of the appellant. Nancy Palmer is qualified for benefits provided she is otherwise eligible. The account of Quick pit Express Lube, Ltd., will not be charged with benefits paid to the claimant.

bgh/kjw