

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

ELIZABETH A PLEASANT  
PO BOX 51  
GLENWOOD MO 63541

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

Appeal Number: 05A-UI-07539-DWT  
OC: 06/19/05 R: 03  
Claimant: Respondent (2)

**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 Quit  
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Excel Corporation (employer) appealed a representative's July 8, 2005 decision (reference 01) that concluded Elizabeth A. Pleasant (claimant) was qualified to receive unemployment insurance benefits and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 9, 2005. The claimant participated in the hearing. Mindy Hadley, the assistant human resource manager, appeared on the employer's behalf. 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.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on September 1, 1994. The claimant worked as a full-time production worker. Marty Thompson was the claimant's supervisor.

In early February 2005, the claimant asked the employer how she could obtain money from her 401K plan. The claimant learned one way she could obtain money from this plan for a house she wanted to purchase was to quit.

In early March 2005, the claimant became ill and requested FMLA. The employer granted the claimant time off for medical reasons. The claimant's doctor released her to return to work on April 11, 2005. The claimant reported to work and worked on April 11.

After the claimant finished her shift on April 11, she did not feel well. The claimant did not go back to work and she did not go back to her doctor. The claimant incorrectly assumed she had not been granted any FMLA after April 11, 2005, because she did not go back to her doctor or provide the employer a statement verifying she could not work as of April 12, 2005. The claimant did not contact the employer April 12 through 26, 2005. Even when an employee is on FMLA, the employer may require the employee to contact the employer.

The claimant went to the employer's facility on April 27 and talked to her supervisor. When the claimant asked about her job, her supervisor indicated he thought she had quit because she had not called or reported to work since April 11, 2005. The claimant still wanted money from her 401K plan. She incorrectly understood the employer would only give her money from her 401K plan if she signed a form indicating she was quitting for health reasons. On April 27, the claimant completed a resignation form and stated she was quitting because she was tired of being sick.

The claimant established a claim for unemployment insurance benefits during the week of June 19, 2005. The claimant filed claims for the weeks ending June 25 through August 6, 2005. She received her maximum weekly benefit amount of \$301.00 in benefits for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The facts do not establish the employer discharged the claimant. Instead, the claimant did not report to work or contact the employer from April 12 through 27. When the claimant contacted the employer again on April 27, she did not talk to anyone in the human resource department about her continued employment. Instead, the claimant wanted to withdraw money from her 401K plan. The

claimant quit on April 27 so she could obtain money from her 401K plan to buy a home. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.3-7.

The law presumes a claimant has voluntarily quit employment without good cause when a claimant is absent from work for more than ten days for personal reasons. 871 IAC 24.25(20). The law also presumes a claimant has voluntarily quit with good cause when a claimant quits because her physician has advised her to quit for medical reasons and the employer is unable to make accommodations for the claimant to continue her employment. 871 IAC 24.26(6)(b).

Although the claimant asserted her doctor advised her to quit prior to April 11, 2005, the claimant provided no supporting evidence to support this assertion. The claimant may have suffered a relapse after she worked on April 11, but she did not go back to her doctor after April 11 to obtain a statement verifying she had a relapse and could not return to work. The facts establish the claimant quit her employment for compelling personal reasons. The claimant did not, however, establish she quit her employment for reasons that qualify her to receive unemployment insurance benefits. Therefore, as of June 19, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending June 25 through August 6, 2005. The claimant has been overpaid \$2,107.00 in benefits she received for these weeks.

**DECISION:**

The representative's July 8, 2005 decision (reference 01) is reversed. The employer did not discharge the claimant. Instead, 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 June 19, 2005. 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. The claimant is not legally entitled to receive benefits for the weeks ending June 25 through August 6, 2005. The claimant has been overpaid and must repay \$2,107.00 in benefits she received these weeks.

dlw/kjw