

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

DAVID R NEIERS  
403 GWENDOLYN DR NE  
CEDAR RAPIDS IA 52402

UNITED STATES CELLULAR CORP  
c/o FRICK UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-03579-SWT  
OC 02/22/04 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 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

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 19, 2004, reference 01, that concluded the claimant voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on April 22, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Angela Bailey participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time as an operational support manager from August 4, 2003 to February 26, 2004. At the time his employment ended, his supervisor was Rebecca Lucera.

The claimant submitted his two-week notice, to be effective March 10, 2004, after Lucera placed the claimant on a 30-day work improvement program and informed him that his interpersonal skills were deficient and he did not appear to be engaged in the business. When the claimant expressed his commitment to the company and his willingness to do whatever was needed to preserve his job, Lucera responded that it was all talk and that she had fired 35 employees in the past.

Lucera informed the claimant that it was not necessary for him to work out the notice period and asked for his keys and badge. The claimant quit due to the stress and anxiety caused by Lucera's disciplining him and threatening his job. He had not seen a health professional before he quit. The claimant did not attempt to correct the problem by going to Lucera's manager or human resources.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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 24.25(38) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The unemployment insurance rules also provide that a claimant is qualified to receive benefits if compelled to quit employment due to a health condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work made it impossible to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related health condition and that he intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant is entitled to benefits for the period from February 22 through March 6, 2003, provided he is otherwise eligible because he was dismissed prior to the date of his resignation. He is disqualified effective March 7, 2003, the week in which his resignation was effective because he quit without good cause attributable to the employer. He has not shown that he quit due to medical reasons under 871 IAC 24. 26(6)b. He has not shown that he was subjected to intolerable working conditions.

DECISION:

The unemployment insurance decision dated March 19, 2004, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

saw/kjf