

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

LATDA SOURAVONG
3 VICKI CR
OTTUMWA IA 52501

EXCEL CORPORATION
c/o FRICK UC EXPRESS
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ST LOUIS MO 63166-0283

ATTORNEY JOE WALSH
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DES MOINES IA 50309

Appeal Number: 04A-UI-10861-BT
OC: 09/05/04 R: 03
Claimant: Respondent (5)

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 871 IAC 24.1(113)a - Separation Due to Layoff

STATEMENT OF THE CASE:

Excel Corporation (employer) appealed an unemployment insurance decision dated September 22, 2004, reference 01, which held that Latda Souravong (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 22, 2004. The claimant participated in the hearing with husband Tim Souravong and Attorney Joe Walsh. Phensy Sayavongchanh participated as the translator. The employer participated through Mindy Ming, Assistant Human Resources Manager.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time production worker from April 14, 2003 through September 2, 2004. She sustained a work-related injury on May 6, 2004 and was working light duty. She was placed on permanent restrictions on August 9, 2004 and was laid off work on September 2, 2004 when the employer could no longer provide work under her current restrictions.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. All terminations of employment are generally classified as layoffs, quits, discharges or other separations. 871 IAC 24.1(113)(a). A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer or an employer has discharged the claimant for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

The evidence establishes the claimant was laid off on September 2, 2004. When an employer initiates a separation, the reasons for the separation must constitute work-connected misconduct before a claimant can be denied unemployment insurance benefits. A layoff does not constitute work-connected misconduct. The claimant's separation from employment was not due to any misconduct on her part nor did she quit her job. The claimant is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

DECISION:

The unemployment insurance decision dated September 22, 2004, reference 01, is modified with no effect. The claimant is qualified for unemployment insurance benefits, provided she is otherwise eligible.

sdb/kjf