

**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**

**JARED W BOWERSOX  
202 HILLCREST  
BLOOMFIELD IA 52537**

**PELLA CORPORATION  
c/o SHEAKLY UNISERVICE INC  
PO BOX 1160  
COLUMBUS OH 43216-1160**

**Appeal Number: 04A-UI-09577-AT  
OC: 08-01-04 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.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

Pella Corporation filed a timely appeal from an unemployment insurance decision dated August 26, 2004, reference 02, which allowed benefits to Jared W. Bowersox. After due notice was issued, a telephone hearing was held September 29, 2004 with Mr. Bowersox participating. Debbie Ansel of Sheakley Uniservice, Inc., represented the employer, Pella Corporation, in the hearing. Human Resources Representatives Lance Traster and Jennifer Smith and Department Manager Kurt McMann testified.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Jared W. Bowersox was employed by Pella Corporation from September 9, 2003 until July 23, 2004. He last worked full-time as a flex operator. Mr. Bowersox was suspended on July 15, 2004. On July 19, 2004, he spoke to Human Resources Representative Lance Traster by telephone. Mr. Traster advised Mr. Bowersox to return to work on the following day and to bring medical documentation of the reason for his absence on July 14, 2004. Mr. Bowersox did not report for work on July 20, 21, or 22nd. Pursuant to company policy, Pella Corporation treated the three days of absence without contact as a voluntary quit. That policy is contained in an employee handbook which Mr. Bowersox received at the time of hire. Mr. Bowersox has received unemployment insurance benefits since filing a claim effective August 1, 2004.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that the separation was a disqualifying event. It does.

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.

Mr. Bowersox testified that Mr. Traster only told him that his suspension was still under review. Mr. Traster's testimony as to the nature of the conversation was detailed and specific. It is also the more plausible explanation of the telephone conversation. The evidence establishes that Mr. Traster had initiated the contact with Mr. Bowersox. There would have been no reason for him to do so except to announce a change in Mr. Bowersox's status. The administrative law judge concludes that the claimant was advised to return to work but failed to do so for three consecutive days. Separation from employment under these circumstances is considered a quit without good cause attributable to the employer. See 871 IAC 24.25(4). Benefits are withheld.

Mr. Bowersox has received unemployment insurance benefits to which he is not entitled. They must be recovered in accordance with the provisions of Iowa Code section 96.3-7.

DECISION:

The unemployment insurance decision dated August 26, 2004, reference 02, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal the ten times his weekly benefit amount, provided he is otherwise eligible. He has been overpaid by \$1,792.00.

pjs/pjs