

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

GARY L PETESCH  
2120 FOYE ST  
DUBUQUE IA 52001

ADVANCE DESIGNS INC  
c/o HONKAMP KRUEGER & COMPANY  
PO BOX 699  
DUBUQUE IA 52004

Appeal Number: 04A-UI-11198-CT  
OC: 09/12/04 R: 04  
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.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit  
Section 96.6(2) – Timeliness of Appeals

STATEMENT OF THE CASE:

Gary Petesch filed an appeal from a representative's decision dated October 1, 2004, reference 01, which denied benefits based on his separation from Advance Designs, Inc. After due notice was issued, a hearing was held by telephone on November 9, 2004. Mr. Petesch participated personally and Exhibits A and B were admitted on his behalf. The employer participated by Gary Lenz, Owner, and Keri Gerken, Supervisor.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: The representative's decision which is the subject of this appeal was mailed to Mr. Petesch at his address of record on October 1, 2004 and received by him within ten days. He mailed an appeal, which was postmarked October 7, 2004. However, Mr. Petesch addressed the appeal to "100" rather than "1000" East Grand Avenue. Therefore, it was returned to him by the postal service on or about October 13. Mr. Petesch then filed his appeal in an envelope postmarked October 16, 2004.

Mr. Petesch was employed by Advance Designs, Inc. from April of 1998 until September 15, 2004. He worked full time performing pre-press maintenance and assisting screen printers. He quit the employment because he felt the work area was not adequately ventilated. One of the products Mr. Petesch used in the course of his work was "CPS Screen Wash," which warns that it is to be used with adequate ventilation. The primary area in which he worked with the product was approximately two feet by four feet with a 36-inch doorway. The area opens into a much larger area, which is ventilated. Mr. Petesch had complained to management about the lack of ventilation on several occasions.

Mr. Petesch had not developed any medical problems or symptoms as a result of his repeated exposure to any chemicals at work. He was not advised by a doctor to quit his job. Mr. Petesch never threatened to quit over the issue of ventilation. Continued work would have been available if he had not quit.

#### REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether Mr. Petesch's appeal should be considered timely filed as required by Iowa Code section 96.6(2). He has provided a copy of the envelope in which his original appeal was contained and it is postmarked October 7, 2004, prior to the October 11, 2004 due date. Although he put an incorrect address on the envelope, he did make a good-faith effort to comply with the jurisdictional time limit by mailing his appeal on October 7. The fact that he put "100" rather than "1000" East Grand Avenue is not considered a fatal flaw. Therefore, his appeal shall be considered timely filed.

The next issue is whether Mr. Petesch was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Petesch had the burden of proving that his quit was for good cause attributable to his employer. Iowa Code section 96.6(2). He quit because he did not feel the area in which he performed some of his duties was adequately ventilated. There was no satisfactory evidence that the air quality at the workplace failed to meet applicable health standards. In essence, Mr. Petesch and the employer disagree as to whether the area is sufficiently ventilated.

Given the length of Mr. Petesch's employment and given that he has not suffered any adverse health consequences as a result of his employment, the administrative law judge cannot conclude that his continued employment posed a risk to his health or well being. Although the fumes from the chemicals may have been noxious, the evidence has not established that the employer failed to provide sufficient ventilation to avoid health risks. Moreover, Mr. Petesch never put the employer on notice that he considered the work environment to be detrimental or intolerable and that he intended to quit if the problem was not corrected. The fact that he

complained to management was not sufficient to put the employer on notice that he was considering quitting over the issue.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Mr. Petesch has failed to satisfy his burden of proving that his quit was for good cause attributable to the employer. Accordingly, benefits are denied.

**DECISION:**

The representative's decision dated October 1, 2004, reference 01, is hereby affirmed. Mr. Petesch quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/pjs