

**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**

**SEVALA SABANOVIC  
1024 LEAVITT ST #10  
WATERLOO IA 50702**

**BEEF PRODUCTS INC  
891 TWO RIVERS DR  
DAKOTA DUNES SD 57049-5150**

**Appeal Number: 05A-UI-06095-CT  
OC: 05/08/05 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:

Sevala Sabanovic filed an appeal from a representative's decision dated May 25, 2005, reference 01, which denied benefits based on her separation from Beef Products, Inc. (BPI). After due notice was issued, a hearing was held by telephone on July 6, 2005. Ms. Sabanovic participated personally. The employer participated by Rick Wood, Human Resources Manager; Joe Panozzo, Safety Supervisor; and Jennifer Stubbs, Human Resource Benefits Supervisor. Exhibits One through Four were admitted on the employer's behalf. Zijo Sucasca participated as the interpreter.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Sabanovic was employed by BPI from June 17, 2004 until May 11, 2005 as a full-time production worker. On May 9, she was seen by the company nurse concerning complaints of pain in her right hand and shoulder. She had not previously been seen by the nurse for any reason. The nurse advised that she should have light-duty work until the problem resolved. The employer then placed Ms. Sabanovic in the basement cleaning equipment. She used a bucket of chemicals to clean and then used a low-pressure hose to spray everything down. She was allowed to work at her own pace. The cleaning work she was assigned is the same work the employer provides to other individuals who need light-duty work, including those limited to using only one hand.

On May 11, Ms. Sabanovic approached Joe Panozzo, with an interpreter, to request that she be moved to a different job because her arm hurt. She was instructed that she could perform the job using only one hand. Ms. Sabanovic did not want to perform the job using only her left hand because she is right-handed. The supervisor offered to show her how to best perform the job using only one hand but, she declined. Ms. Sabanovic wanted the employer to assign her to work sorting meat. However, this position often required the use of both hands and sometimes involved lifting items weighing as much as 30 pounds. The employer did not feel this work was consistent with Ms. Sabanovic's light-duty requirements. She was told that the only work currently available was that cleaning in the basement. Ms. Sabanovic indicated she would rather quit than perform the cleaning work. Therefore, the employer processed her as a voluntary quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Sabanovic was separated from employment for any disqualifying reason. She initiated the separation when she declined to perform the light-duty work the employer had available. Because it was her decision to leave rather than perform the work, the separation is considered a voluntary quit. 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). Ms. Sabanovic's quit was not attributable to the employer. The employer was providing her with work that she could perform in spite of the problem she was having with her right shoulder and hand. It was work she could perform at her own pace using her left hand. It appears to be a matter of Ms. Sabanovic not liking the work rather than being physically unable to perform it. The fact that she did not like the work or that she preferred a different assignment did not constitute good cause attributable to the employer for quitting.

The evidence of record failed to establish any good cause attributable to BPI for Ms. Sabanovic's separation. Therefore, benefits are denied.

DECISION:

The representative's decision dated May 25, 2005, reference 01, is hereby affirmed. Ms. Sabanovic voluntarily quit her employment for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/sc