

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

BENTON L CLOKE
508 CHURCH ST
ELDON IA 52554

EXCEL CORPORATION
c/o FRICK UC EXPRESS
P O BOX 283
ST LOUIS MO 63166

Appeal Number: 04A-UI-09538-SWT
OC 08/08/04 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, 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 96.5-1 - Voluntary Quit
Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 25, 2004, reference 01, that concluded the claimant was laid off due to lack of work. A telephone hearing was held on September 28, 2004. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Nick Statler participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time for the employer as a production worker from September 29, 2003, to July 15, 2004. After July 15, the claimant called the employer and left a message on July 19, 20, and 21 stating he would not be at work. After July 21, the claimant did not report to work or notify the employer that he would not be at work. The employer had continuing work

available for the claimant if he would have reported to work. The claimant voluntarily quit employment for unknown reasons.

The claimant filed for and received a total of \$310.00 in unemployment insurance benefits for the week ending September 4, 2004.

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.

The claimant voluntarily quit employment without good cause attributable to the employer. Since he did not participate in the hearing, his reasons for not reporting back to work are unknown.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid \$310.00 in benefits for the week ending September 4, 2004.

DECISION:

The unemployment insurance decision dated August 25, 2004, reference 01, is reversed. 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. The claimant was overpaid \$310.00 in unemployment insurance benefits, which must be repaid.

saw/s