

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

CHAD A PICKEL
2239 FRANCIS ST
DUBUQUE IA 52001

GARRETT WATERPROOFING
16985 MOUNTAIN RDG
DUBUQUE IA 52002-9652

Appeal Number: 04A-UI-12301-CT
OC: 10/17/04 R: 04
Claimant: Respondent (3-R)

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 96.4(3) – Able and Available
Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Garrett Waterproofing filed an appeal from a representative's decision dated November 8, 2004, reference 02, which held that Chad Pickel satisfied the availability requirements of the law effective October 17, 2004. After due notice was issued, a hearing was held by telephone on December 9, 2004. Mr. Pickel participated personally. The employer participated by Clint Duffy, Partner.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Pickel began working for Garrett Waterproofing in April of 2004 as a part-time laborer working approximately 20 hours each week. He was on a temporary layoff from October 11 through October 22, 2004. Mr. Pickel returned to work on October 22 and worked until November 9, 2004. He voluntarily quit the employment on November 9 because he was not getting enough hours of work. He had not complained to the employer about any matters prior to quitting.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Pickel was separated from employment for any disqualifying reason. When he filed his claim effective October 17, 2004, he was on a temporary layoff and, as such, was eligible to receive benefits until the end of the layoff on October 22. For the above reasons, benefits are allowed from October 17 through October 22, 2004.

Mr. Pickel subsequently quit his employment because he was not getting enough hours of work. However, he had not put the employer on notice that he was considering quitting because of any work-related problems. Therefore, he deprived the employer of the opportunity to see if more hours could be made available. For the above reasons, the administrative law judge concludes that the separation was a voluntary quit without good cause attributable to the employer. An individual who voluntarily quits part-time employment without good cause attributable to the employer may nevertheless qualify for job insurance benefits if there are sufficient other wage credits to establish a valid claim. See 871 IAC 24.27(96). Wage credits earned with the part-time employer that was quit may not be used on the claim until such time as the individual re-qualifies by earning ten times the weekly benefit amount in insured wages after the disqualifying separation. This matter shall be remanded to Claims for a determination as to whether Mr. Pickel has sufficient other base period wage credits on which to base a valid claim for benefits.

DECISION:

The representative's decision dated November 8, 2004, reference 02, is hereby modified. Mr. Pickel was eligible to receive job insurance benefits for the two weeks ending October 23, 2004. Mr. Pickel voluntarily quit his employment for no good cause attributable to the employer effective November 7, 2004. This matter is remanded to Claims for a determination as to whether Mr. Pickel has sufficient other wage credits to establish a valid claim.

cfc/pjs