

**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**

**SENAD COVIC
PO BOX 726
WATERLOO IA 50704**

**EXCEL CORPORATION
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166 0283**

**Appeal Number: 05A-UI-02900-DWT
OC: 01/02/05 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:

Excel Corporation (employer) appealed a representative's March 4, 2005 decision (reference 01) that concluded Senad Covic (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 8, 2005. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Tonya Teeter, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on March 19, 2002. He worked as a full-time employee in the ham bone department. The claimant's last day of work was December 3, 2004. Although the claimant was scheduled to work after December 3, he did not report to work or contact the employer again. Prior to December 4, the employer had no knowledge of any complaints or problems the claimant may have had.

The claimant established a claim for unemployment insurance benefits during the week of January 2, 2005. He filed claims for the weeks ending January 8 through 29, 2005. The claimant received his maximum weekly benefit amount of \$289.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The facts establish the claimant quit his employment by abandoning his job after December 3, 2004. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The claimant never told the employer why he did not return to work after December 3, 2004. The employer had no record of any complaints or problems the claimant experienced while employed. The evidence does not reveal why the claimant quit his employment. Therefore, the facts do not establish that the claimant quit for reasons that qualify him to receive unemployment insurance benefits. As of January 2, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive unemployment insurance benefits for the weeks ending January 8 through 29, 2005. The claimant has been overpaid \$1,156.00 in benefits he received for these weeks.

DECISION:

The representative's March 4, 2005 decision (reference 01) is reversed. The claimant voluntarily quit his employment for unknown reasons. The claimant did not establish he quit his employment for reasons that qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of January 2, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for

insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending January 8 through 29, 2005. The claimant has been overpaid and must repay \$1,156.00 in benefits he received for these weeks.

dlw/pjs