

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

PAULETTE M MICKEY
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COUNCIL BLUFFS IA 51501

PACE TRANSPORTATION INC
727 S 13TH ST
OMAHA NE 68102

Appeal Number: 04A-UI-06575-S2T
OC: 05/23/04 R: 01
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, 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

STATEMENT OF THE CASE:

Paulette Mickey (claimant) appealed a representative's June 9, 2004 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Pace Transportation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 13, 2004. The claimant participated personally. The employer participated by Jenny Hamilton, Human Resources Generalist.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 13, 2002, as a full-time transportation

specialist. The claimant had been diagnosed with spastic colon prior to working for the employer. In late April 2004, the claimant told the employer she was under stress at work and needed help in completing her tasks. She had started to experience some problems due to her spastic colon, which she felt were stress related. The claimant did not consult a physician. On May 19, 2004, the claimant gave notice of her resignation. Her last day of work was May 21, 2004. Continuing work was available to the claimant at the time of her separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes she did.

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.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). In order to show good cause for leaving employment based on intolerable or detrimental working conditions, an employee is required to take the reasonable step of informing the employer about the conditions the employee believes are intolerable or detrimental and that she intends to quit employment unless the conditions are corrected. The employer must be allowed a chance to correct those conditions before the employee takes the drastic step of quitting employment. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The claimant informed the employer of the working conditions but never that she intended to quit if the conditions were not corrected. Due to the claimant's failure to give the employer notice, there cannot be a finding that she left work with good cause attributable to the employer and, therefore, the claimant is not eligible to receive unemployment insurance benefits.

DECISION:

The representative's June 9, 2004 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

bas/b