

IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS

68-0157 (9-06) - 3091078 - EI

MICHELLE A FISTER  
11669 – 108<sup>TH</sup> AVE  
DAVENPORT IA 52804

**APPEAL NO. 09A-UI-17800-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

INTERSTATE BRANDS CORP  
c/o TALX UCM SERVICES  
PO BOX 283  
ST LOUIS MO 63166-0283

**APPEAL RIGHTS:**

**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:

***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.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

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.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**MICHELLE A FISTER**  
Claimant

**APPEAL NO. 09A-UI-17800-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**INTERSTATE BRANDS CORP**  
Employer

**OC: 11/01/09**  
**Claimant: Appellant (2)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Michelle Fister filed an appeal from a representative's decision dated November 24, 2009, reference 01, which denied benefits based on her separation from Interstate Brands Corporation (IBC). After due notice was issued, a hearing was held by telephone on January 22, 2010. Ms. Fister participated personally. The employer participated by Wendi Chapman, Assistant Human Resources Manager.

**ISSUE:**

At issue in this matter is whether Ms. Fister was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Fister was employed by IBC from June 26, 2002 until October 27, 2009. She was employed full time as a transport driver. She delivered product within a 300-mile radius of Davenport and usually worked alone. She quit because she could no longer perform all of the functions of the job due to the residuals of a work-related injury.

Ms. Fister sustained work-related injuries when she was involved in an accident while driving the employer's vehicle on August 6, 2008. The accident primarily affected her back, left shoulder, and right knee. In April of 2009, she was released to light duty and remained on light duty for approximately eight weeks. She returned to full duty in June of 2009 but continued to have problems periodically. Ms. Fister developed tendonitis in her left shoulder and was taken off work until further medical testing could be performed. On or about October 27, she was released to return to full duty.

In spite of the full release, Ms. Fister had problems with the lifting, pulling, and pushing required in her job. She could no longer perform the heavy work involved in loading and unloading a semi trailer. She was also experiencing difficulty getting in and out of the vehicle. When the employer was unable to accommodate her, she quit.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who leaves employment voluntarily 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. Fister quit her job with IBC because she could not comfortably meet the physical demands of the job as a result of injuries sustained on the job. She injured her left shoulder in the accident in August of 2008 and later developed tendonitis in the same shoulder. Given the nature of her injuries, it was not unreasonable that she would experience pain or discomfort in the joint when performing the pulling, pushing, and lifting required in her job. The fact that she had been released to full duty did not mean she would be pain-free as she went about her job.

The administrative law judge concludes that continuing in her job with IBC posed a risk to Ms. Fister's physical health. The heavy nature of her work aggravated the condition caused by the injuries. She sought accommodations from the employer but was unsuccessful. For the above reasons, it is concluded that Ms. Fister had good cause attributable to the employer for quitting. Good cause attributable to the employer need not be based on some fault of wrong-doing on the part of the employer and may be attributable to the employment itself. See Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). Benefits are allowed.

**DECISION:**

The representative's decision dated November 24, 2009, reference 01, is hereby reversed. Ms. Fister quit her employment with IBC for good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css