

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

PATRICIA M BRUCK
43 N 22ND ST
DENISON IA 51442

CLEAN AIR FILTER COMPANY
2203 HWY 59
PO BOX 212
DEFIANCE IA 51527

Appeal Number: 05A-UI-11414-AT
OC: 11/21/04 R: 01
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 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Clean Air Filter Company filed a timely appeal from an unemployment insurance decision dated November 2, 2005, reference 04, which allowed benefits to Patricia M. Bruck. After due notice was issued, a telephone hearing was held November 29, 2005 with Ms. Bruck participating. Office Manager Karen Steinkuehler participated for the employer. This matter is considered on a consolidated record with 05A-UI-11415-AT.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: At all material times herein, Patricia M. Bruck has

been an employee of Clean Air Filter Company. She normally works 35 hours per week. During the week of August 2 through August 8, 2005, Clean Air Filter Company experienced a layoff on Thursday and Friday. Ms. Bruck lost 13.25 hours of work because of the layoff.

Ms. Bruck also did not work on Monday or Tuesday of that week and only worked a half-day on Wednesday because her daughter had been injured in an automobile accident over the prior weekend. Ms. Bruck filed a claim for unemployment insurance benefits for the week in question and received benefits in the gross amount of \$232.00.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. Bruck is eligible for unemployment insurance benefits for the week ending October 8, 2005. The administrative law judge concludes that she is not.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Failure to work the major portion of a scheduled workweek for an individual's regular employer leaves the individual ineligible for unemployment insurance benefits for that week. See 871 IAC 24.23(29). The evidence in this record establishes that Ms. Bruck missed the major portion her workweek because of her daughter's injury. Since she failed to work a majority of her scheduled hours, she is not eligible for unemployment insurance benefits.

Ms. Bruck has received unemployment insurance benefits to which she is not entitled. They must be recovered in accordance with the provisions of Iowa law.

DECISION:

The unemployment insurance decision dated November 2, 2005, reference 04, is reversed. The claimant is ineligible for unemployment insurance benefits for the week ending November 8, 2005. She had been overpaid by \$232.00.

dj/kjw