

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

SHIRLEY C COLES
23350 BLACK OAK CT
CALIFORNIA MD 20619

CCB PACKAGING INC
PO BOX 220
HIAWATHA IA 52233-0220

Appeal Number: 04A-UI-05724-HT
OC: 04/25/04 R: 12
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
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

The employer, CCB Packaging (CCB), filed an appeal from a decision dated May 17, 2004, reference 01. The decision allowed benefits to the claimant, Shirley Coles. After due notice was issued, a hearing was held by telephone conference call on June 14, 2004. The claimant participated on her own behalf. The employer participated by Human Resources Manager Michelle Philpott; Plant Manager Frank Cotty; Production Manager John Metz; and Distribution Manager Rod Hanssen.

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: Shirley Coles began employment with CCB on February 15, 2002. She was a full-time quality assurance technician.

Ms. Coles had been visiting Dr. Johns for a worker's compensation claim. The physician's last statement to CCB was that it was uncertain whether time off work would improve the problem. Before any resolution was reached the claimant asked for personal time off to go to Maryland to deal with personal problems regarding her high-school-aged son. While in Maryland she went to another doctor and received retroactive approval for the visit from the employer's workers' compensation insurance company. This doctor was not approved to take over her medical treatment.

The claimant talked to Distribution Manager (formerly Human Resources Manager) Rod Hanssen and he said there was no approval for a medical leave of absence from either an approved physician or the insurance company. The additional time off she was requesting for medical purposes had not been approved and her continuing leave in Maryland would be considered personal.

Shirley Coles has received unemployment benefits since filing a claim with an effective date of April 25, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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 24.23(10) provides:

- (10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The claimant is still on a personal leave of absence approved by the employer so she could deal with problems concerning her son. Ms. Coles was never approved for medical leave of absence by either the employer, the workers' compensation insurance company, or the approved physician. Mr. Hanssen specifically told her the leave would be considered personal only until specific approval came from the approved doctor or the insurance company. Under the provisions of the above Code Sections, she is not eligible to receive benefits.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in

good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of May 17, 2004, reference 01, is reversed. Shirley Coles is not eligible to receive unemployment benefits during her period of personal leave of absence. She is overpaid in the amount of \$644.00.

bgh/b