

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

COLLEEN D BLACK
426 S POCAHONTAS
OTTUMWA IA 52501

EXCEL CORPORATION
c/o FRICK UC EXPRESS
PO BOX 283
ST LOUIS MO 63166

Appeal Number: 04A-UI-11986-S2T
OC: 10/10/04 R: 03
Claimant: Appellant (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

STATEMENT OF THE CASE:

Colleen Black (claimant) appealed a representative's October 27, 2004 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Excel Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 1, 2004. The claimant participated personally. The employer participated by Adriana Cobos, Human Resources Associate.

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 March 2, 1988, as a full-time production supervisor. The claimant's job became more stressful over time. She suffered from Type II Diabetes. In addition, she was required to wear steel-toed shoes which caused foot and knee problems. The claimant's physician advised the claimant to start looking for less stressful employment. The claimant discussed her health concerns with her supervisor and the Human Resources Manager. She told the employer that the job was aggravating her health problems. The claimant told the employer she would quit if she were not accommodated. The claimant applied for other jobs for the employer but was denied. The employer told the claimant there was nothing the employer could do for the claimant.

On September 10, 2004, the claimant gave the employer written notice of her resignation effective October 6, 2004. The employer escorted the claimant off the property on September 10, 2004.

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 not.

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 and that she intended to quit if the conditions were not corrected. The claimant has satisfied the notice requirements. She left work with good cause attributable to the employer and, therefore, she is eligible to receive unemployment insurance benefits.

DECISION:

The representative's October 27, 2004 decision (reference 01) is reversed. The claimant voluntarily left employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

bas/kjf