

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

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DES MOINES IA 50315

WESTSTAFF USA INC
c/o TALX UCM SERVICES INC
PO BOX 00283
ST LOUIS MO 63166-0283

Appeal Number: 04R-UI-10797-MT
OC: 04/04/04 R: 02
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:

Claimant filed an appeal from a decision of a representative dated May 12, 2004, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on November 9, 2004. Claimant participated. Employer participated by Robert Fava, Branch Manager. This matter was remanded by the Employment Appeal Board September 30, 2004 for a new hearing.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was last employed for employer on September 12, 2003. Claimant

last worked on September 5, 2003. No work was available when claimant called in September 8, 2003. Claimant went in again September 12, 2003 to pick up her check and no work was available. Claimant started other employment September 15, 2003. Employer did not offer claimant any work during the week of September 8, 2003.

REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether claimant quit for good cause attributable to employer. The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because no work was offered for the week of September 8, 2003. Since claimant had other employment starting the next week, the obligation to call in was extinguished. This is a layoff for lack of work. Claimant properly reported to the employer asking for further assignment and none was available. Benefits are allowed.

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.

DECISION:

The decision of the representative dated May 12, 2004, reference 02, is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

mdm\pjs