

**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**

**JEFFREY L MCCRACKEN  
1334 – 32<sup>ND</sup> ST #4  
DES MOINES IA 50311**

**HOME PLASTICS INC  
5250 NE 17<sup>TH</sup> ST  
DES MOINES IA 50313-2119**

**Appeal Number: 04A-UI-03129-CT  
OC: 02/29/04 R: 02  
Claimant: Respondent (1)**

**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, 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.

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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Home Plastics, Inc. filed an appeal from a representative's decision dated March 17, 2004, reference 01, which held that no disqualification would be imposed regarding Jeffrey McCracken's separation from employment. After due notice was issued, a hearing was held by telephone on April 12, 2004. Mr. McCracken participated personally. The employer participated by Sam Siegel, President.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. McCracken was employed by Home Plastics, Inc. from December 4, 2002 until February 27, 2004 as a full-time machine set-up person. He quit the employment because of the language used by Sam Siegel.

During the course of his employment, Mr. McCracken had several conversations with Mr. Siegel in which he explained that he objected to Mr. Siegel's constant use of profanity. Mr. Siegel would explain that that was the way he was brought up. On February 27, Mr. Siegel was talking with a group of employees, including Mr. McCracken, about plastic bags that had been returned by a customer. Mr. McCracken walked away from the group, shaking his head. Mr. Siegel approached him and stated words to the effect, "I sign your fucking paycheck and if you don't like the way I talk, you can leave." Mr. McCracken then quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. McCracken was separated from employment for any disqualifying reason. 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). Mr. McCracken had the burden of proving that his quit was for good cause attributable to the employer. Iowa Code Section 96.6(2). He quit because of the profanity used by Mr. Siegel at the workplace. He had put Mr. Siegel on notice that he found such language objectionable. However, Mr. Siegel continued to use profanity. His continued use of profanity in spite of Mr. McCracken's objections constituted an intolerable working condition as contemplated by 871 IAC 24.26(4). Accordingly, it is concluded that he had good cause attributable to the employer for quitting and benefits are allowed.

DECISION:

The representative's decision dated March 17, 2004, reference 01, is hereby affirmed. Mr. McCracken quit his employment for good cause attributable to the employer. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/kjf