

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

LARRY L ALLEN
5034 RAIN TREE DR
WEST DES MOINES IA 50265

PATIENT CARE
8421 UNIVERSITY
CLIVE IA 50325

MICHAEL MILLER
300 WALNUT ST STE 270
DES MOINES IA 50309

Appeal Number: 05R-UI-01349-HT
OC: 12/21/03 R: 02
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 – Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

The above case was remanded by order of the Iowa District Court for Polk County in an order dated January 26, 2005. The order required the reopening of the record for the limited purpose of accepting into evidence two documents from the claimant, which had not been submitted at the prior hearing on April 26, 2004. After due notice was issued a hearing was held by telephone conference call on February 23, 2005. The claimant participated on his own behalf and was represented by Attorney Michael Miller. The employer participated by President Dan Sethi. Exhibits A and B were admitted into the record.

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: The exhibits admitted in to the record consisted of an e-mail of February 18, 2004, from President Dan Sethi to Larry Allen and dealt with the lack of progress being made on recruitment. The second exhibit was a letter from the claimant's spouse, Linda Allen.

The findings of fact from appeal 04A-UI-03735-HT are incorporated as though set out here in full.

REASONING AND CONCLUSIONS OF LAW:

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

The reasoning and conclusions of law from appeal 04A-UI-03735-HT are incorporated as though set out here in full.

The judge further notes that the admission of the exhibits did not contain any information which would change the outcome of the hearing. The e-mail was mentioned and discussed at the prior hearing on April 26, 2004. The letter from Linda Allen consisted largely of personal anecdotes and opinions, with a large amount of hearsay, apparently based on the claimant's statements to his spouse. There is no evidence she had any firsthand knowledge of many of the agreements, situations, comments and circumstances, which she referenced in the exhibit.

DECISION:

The representative's decision of March 25, 2004, reference 01, is reversed. Larry Allen is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible. He remains overpaid in the amount of \$2,177.00 as stated in the original decision.

bgh/kjf