

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

ROBERT MAKAREWICZ
APT 306
634 ASHTON PL NE
CEDAR RAPIDS IA 52402

LA LEASING INC
SEDONA STAFFING
612 VALLEY DR
MOLINE IL 61265

Appeal Number: 05A-UI-11983-HT
OC: 10/23/05 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) – Quit

STATEMENT OF THE CASE:

The claimant, Robert Makarewicz, filed an appeal from a decision dated November 21, 2005, reference 03. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 12, 2005. The claimant participated on his own behalf. The employer, Sedona Staffing, participated by Account Coordinator Mindy Ptacek and Manager of Workers' Compensation Chris Nelson.

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: Robert Makarewicz was employed by Sedona Staffing beginning October 15, 2004. His last assignment was at Victor Plastics and began on

October 9, 2005. It was a 45-day temp-to-hire position. He worked the night shift from 6:00 p.m. until 6:00 a.m.

On October 22, 2005, the claimant punched out at 12:30 a.m. and did not appear for his shift which began at 6:00 p.m. on October 23, 2005. On Monday, October 24, 2005, a representative from Victor Plastics contacted Account Coordinator Mindy Ptacek and said the claimant had gone home early without permission on Saturday and had not appeared for work on Sunday.

Mr. Makarewicz stated the night supervisor had sent him home early because it was slow and he did not come to work the next night because he thought it would still be slow.

REASONING AND CONCLUSIONS OF LAW:

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

The employer maintains the claimant quit because he left early one night without permission and did not come to work the next night. However, it has failed to successfully rebut the claimant's assertion he was sent home early by the night supervisor due to work being slow. Ms. Ptacek could only repeat what was told to her by an unidentified representative from the client, and this is insufficient to rebut the claimant's testimony.

Although Mr. Makarewicz was no-call/no-show for the next shift, one incident does not constitute a voluntary quit under 871 IAC 24.25(4) and disqualification may not be imposed.

DECISION:

The representative's decision of November 21, 2005, reference 03, is reversed. Robert Makarewicz is qualified for benefits provided he is otherwise eligible.

bgh/kjw