

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

DAVID L MICHELSON
640 – 1ST AVE SE
BRITT IA 50423

SECURITAS SECURITY SERVICE
610 E DES MOINES ST
DES MOINES IA 50309

Appeal Number: 04A-UI-02182-HT
OC: 10/26/03 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

STATEMENT OF THE CASE:

The employer, Securitas Security Service (Securitas), filed an appeal from a decision dated February 18, 2004, reference 07. The decision allowed benefits to the claimant, David Michelson. After due notice was issued a hearing was held by telephone conference call on March 18, 2004. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Human Resources Manager Shelsie Greenfield and was represented by Terry Clayton.

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: David Michelson was employed by Securitas from December 22, 2003 until January 26, 2004. He was a full-time security officer working midnight until 8:00 a.m. At the time of hire the claimant received a copy of the employer's attendance policy which requires employees to report any absences four hours before the start of shift.

On January 24, 2004, Mr. Michelson called his supervisor 90 minutes before the start of the shift to say he would be absent. The supervisor told him he would have to come to work because he did not give four hours' notice, but he did not report. He was no-call/no-show for his shift on January 25, 2006. On Monday, January 26, 2004, Human Resources Manager Shelsie Greenfield called to ask him why he had not been at work. He said he was sick, fell asleep, and forgot to call. She asked him if he intended to work that evening and he said no, and when she asked if he had planned to call in, he said he did not. When she reminded him of the attendance policy he simply reiterated that he was not coming in to work that night and did not do so.

David Michelson filed a claim for unemployment benefits with an effective date of October 26, 2003. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

REASONING AND CONCLUSIONS OF LAW:

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

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 24.25(4) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant was no-call/no-show to work for three days. He was aware of the policy which required him to notify the employer at least four hours before the start of his shift if he was going to be absent and did not comply with this requirement. Under the provisions of the above

Administrative Code section, this is a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of February 18, 2004, reference 07, is reversed. David Michelson is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/kjf