

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

BRANDON M PACHTINGER  
PO BOX 44  
MONMOUTH IA 52309

L A LEASING INC  
SEDONA STAFFING  
612 VALLEY DR  
MOLINE IL 61265

Appeal Number: 05A-UI-03540-DWT  
OC: 02/27/05 R: 04  
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, 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-j – Voluntary Quit Temporary Employment  
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Sedona Staffing (employer) appealed a representative's March 30, 2005 decision (reference 03) that concluded Brandon M. Pachtinger (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant's employment separation was for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 25, 2005. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Colleen McGuinty and Kirsten Regenweather appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits, or did the employer discharge the claimant for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant registered to work for the employer's business clients. The employer is a staffing agency. When the claimant registered, he received information that when a job ended it was his responsibility to contact the employer within three days for another assignment.

The employer assigned the claimant to a temp-to-hire position on August 24, 2004. The claimant did not report he would be late on September 28 or 29. When the claimant reported to work late the second day, September 29, the client contacted the employer to end the claimant's assignment. The client had already sent the claimant home because he reported to work late two consecutive days. The claimant has not contacted the employer after he was sent home from work on September 29, 2004.

The claimant established a claim for unemployment insurance benefits during the week of February 27, 2005. He filed claims for the weeks ending March 12 through April 23, 2005. The claimant received his maximum weekly benefit amount of \$132.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. When a claimant works for a temporary employment firm, he may be considered to have voluntarily quit if he fails to contact the employer within three days after a job assignment ended. Iowa Code § 96.5-1-j.

The facts indicate that after the business client sent the claimant home and ended the job assignment, the claimant failed to contact the employer for another assignment. A preponderance of the evidence establishes the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. As of February 27, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive unemployment insurance benefits during the weeks ending March 12 through April 23, 2005. The claimant has been overpaid \$924.00 in benefits he received for these weeks.

DECISION:

The representative's March 30, 2005 decision (reference 03) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified

from receiving unemployment insurance benefits as of February 27, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending March 12 through April 23, 2005. The claimant has been overpaid and must repay \$924.00 in benefits he received for these weeks.

dlw/sc