

**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 MCDONALD
507 E 1ST ST
HUXLEY IA 50124**

**THE WALDINGER CORPORATION
2601 BELL AVE
DES MOINES IA 50321-1120**

**Appeal Number: 05A-UI-05594-MT
OC: 04/17/05 R: 02
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 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 10, 2005, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 14, 2005. Claimant participated. Employer failed to respond to the hearing notice and did not participate.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 25, 2005. Claimant was on light duty due to a work-related injury. Claimant was called by his supervisor on April 15, 2005

and told to return to work effective April 18, 2005. Claimant did not receive the call. A message was left on claimant's cellular telephone. Claimant did not report to work April 18, 2005, April 19, 2005 and April 20, 2005. Employer terminated the employment relationship due to job abandonment. Claimant later called and asked for further work but was told that he had quit.

REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether claimant quit for good cause attributable to employer. The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when employer terminated the employment relationship because of alleged job abandonment. Employer had claimant on a lay off. Employer attempted to recall claimant to work by leaving a message on a telephone. Claimant did not receive the message. It is not a valid recall to work unless the offer is made in person or by personal telephone conference. Messages are not sufficient notice for job offers. As such claimant cannot be held responsible for his three missed days. This is a separation for cause attributable to employer. Benefits allowed.

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.

DECISION:

The decision of the representative dated May 10, 2005, reference 02, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

mdm\pjs