

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

CHARLES E BAKER
1525 E 39TH ST
DAVENPORT IA 52807

MIDWEST JANITORIAL SERVICE INC
1395 N CENTER POINT RD
HIAWATHA IA 52233-2101

Appeal Number: 06A-UI-03257-H
OC: 07/10/05 R: 04
Claimant: Appellant (5)

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 Quitting

STATEMENT OF THE CASE:

Charles Baker filed an appeal from a decision dated March 10, 2006, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held in Davenport, Iowa, on May 8, 2006. The claimant participated on his own behalf and with a witness, Dan Oechsner. Midwest Janitorial participated by Branch Manager Debbie Stacy.

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: Charles Baker was employed by Midwest Janitorial from September 9, 2005, until February 27, 2006. He was a full-time day shift supervisor.

On Wednesday, February 22, 2006, the claimant did not "cover" one of his buildings. That meant that he had someone who was absent and he did not find a substitute or work the account himself. On Friday, February 24, 2006, he left work early.

Branch Manager Debbie Stacy wrote up two warnings for these incidents and notified Mr. Baker to come to her office at 8:30 a.m. on Monday, February 27, 2006. It was her intention to discharge him. However, when she arrived at approximately 8:00 a.m., she found Mr. Baker's keys on the front desk. She had to run a short errand and when she returned at 8:30 a.m. Mr. Baker came to her office at which time he said that he knew the employer intended to "fire him anyway" and submitted his cell phone and his front door key. The employer had at no time told him he was going to be fired but he apparently went in the manager's office and saw the write-ups.

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.

The claimant quit because he feared he was going to be discharged. However, at no time did any member of management, or any other supervisor or co-worker, tell him he was going to be fired. He based the assumption on information he obtained by seeing the write-ups on the manager's desk. This is a voluntary quit because he feared he was going to be discharged. This does not constitute good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of March 10, 2006, reference 02, is affirmed. Charles Baker is disqualified and benefits are withheld until he has requalified by earning ten times his weekly benefit amount, provided he is otherwise eligible.

cs/pjs