

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

REGINALD M JENKINS
APT 152
6615 – 150TH ST SW
TACOMA WA 98439

MENARD INC
4777 MENARD DR
EAU CLAIRE WI 54703

Appeal Number: 05A-UI-12267-HT
OC: 10/09/05 R: 12
Claimant: Appellant (1)

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 96.6(2) – Timeliness
Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Reginald Jenkins, filed an appeal from a decision dated October 25, 2005, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 21, 2005. The claimant participated on his own behalf. The employer, Menards, participated by Human Resources Coordinator Amanda Bethard. Exhibit D-1 was admitted into the record.

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: Reginald Jenkins filed a claim for unemployment

benefits with an effective date of October 9, 2005. A decision was issued by Iowa Workforce Development on October 25, 2005, which disqualified him from receiving unemployment benefits. The decision was mailed to the claimant at his address of record, but he did not receive it. On or about December 1, 2005, the claimant contacted Iowa Workforce Development to determine the status of his claim and was told at that time he had been disqualified. He filed an appeal on December 7, 2005.

Mr. Jenkins was employed by Menards from August 5, 2004 until July 26, 2005. He was a part-time load builder. He submitted a written resignation to Human Resources Coordinator Amanda Bethard stating he was moving out of state to "care for a child." Continued work was available to him had he not quit.

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether the appeal is timely. The judge concludes it is.

Iowa Code Section 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant did not receive a copy of the October 25, 2005, decision and was unaware an appeal needed to be filed until December 1, 2005. After learning the decision had not been in his favor the claimant filed an appeal within ten days. The appeal should be accepted as timely.

The next 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(2) 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:

(2) The claimant moved to a different locality.

The sole reason for the claimant's resignation was his decision to move to another state for personal reasons. While these may be good personal reasons, they do not constitute good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of October 25, 2005, reference 01, is affirmed. Reginald Jenkins is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/kjw