

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

JEFFREY A LORENZ  
7717 ASHLEY PL  
JOHNSTON IA 50131

MAXIMUS INC  
c/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-06006-CT  
OC: 05/08/05 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, 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) – Voluntary Quit  
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Maximus, Inc. filed an appeal from a representative's decision dated May 25, 2005, reference 01, which held that no disqualification would be imposed regarding Jeffrey Lorenz' separation from employment. After due notice was issued, a hearing was held by telephone on June 27, 2005. Mr. Lorenz participated personally. The employer participated by Diane Blaschko, Vice President. Exhibit One was admitted on the employer's behalf.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Lorenz began working for Maximus, Inc. on November 15, 1999. The employer provides financial and cost accounting services for all counties within Iowa. Mr. Lorenz was last employed full time as manager, a position he had held for approximately one year.

On April 16, 2005, Mr. Lorenz was offered work with Cost Advisory Services, the employer's competitor. Due to a non-compete provision in his work agreement, he could not start the new employment until at least one year after he left Maximus, Inc. On April 18, Mr. Lorenz submitted a written resignation. He did not give an effective date of his resignation but did indicate that he intended to stay until the current cycle of cost plans was completed. The plans would have been completed in August or September of 2005. Mr. Lorenz also indicated in his resignation that he did not intend to continue to market the current contracts that had been sent to Iowa counties for renewal. Marketing the contracts meant attempting to convince the counties that they should continue receiving services through Maximus, Inc. Mr. Lorenz did not feel he could sell Maximus, Inc. as a provider because he felt Cost Advisory Services provided a better deal. Because he did not intend to perform all of his duties until he left, Mr. Lorenz was told on April 26 that that would be his last day. Continued work would have been available if he had not tendered his resignation. He could have worked out his notice period if he had not indicated an intent not to perform all of his duties.

Mr. Lorenz has received a total of \$1,524.00 in job insurance benefits since filing his claim effective May 8, 2005.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Lorenz was separated from employment for any disqualifying reason. He tendered his resignation on April 18, 2005. He indicated his desire to work until August or September but was released on April 26. Ordinarily, an individual who is discharged prior to the effective date of resignation is allowed job insurance benefits from the last day worked until the effective date of the resignation. See 871 IAC 24.25(38). However, in the case at hand, Mr. Lorenz indicated that, although he would remain until August or September, he would not perform the marketing aspect of his job. The administrative law judge appreciates that he felt he could not market a product he did not feel was the best available. However, marketing the product for Maximus, Inc. was part of the job and the employer had the right to expect that he would perform all aspects of his job until he left the employment. The administrative law judge concludes that by telling the employer he would not perform all aspects of his job, Mr. Lorenz was, in essence, quitting immediately. It is concluded, therefore, that he should not be allowed benefits from the last day worked until August or September of 2005.

Mr. Lorenz was leaving Maximus, Inc. to accept work elsewhere. Pursuant to Iowa Code section 96.5(1)a, an individual who leaves employment to accept work elsewhere is not eligible to receive job insurance benefits until such time as he has performed services in the new employment. Inasmuch as Mr. Lorenz has not performed services in the new employment, he is not eligible for job insurance benefits based on his quit.

Mr. Lorenz has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated May 25, 2005, reference 01, is hereby reversed. Mr. Lorenz voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Lorenz has been overpaid \$1,524.00 in job insurance benefits.

cfc/pjs