

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

WILLIAM T SULLIVAN  
PO BOX 273  
LAMONT IA 50650

WINTHROP WELDING WORKS INC  
334 W NORTH ST  
PO BOX 87  
WINTHROP IA 50682-0087

Appeal Number: 04A-UI-12818-HT  
OC: 10/31/04 R: 04  
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, 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 - Quit

STATEMENT OF THE CASE:

The claimant, William Sullivan, filed an appeal from a decision dated November 22, 2004, 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 22, 2004. The claimant participated on his own behalf. The employer, Winthrop Welding Works, Inc. (WWW), participated by Officer Roger Pint.

#### 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: William Sullivan was employed by WWW from October 14, 2003 until November 2, 2004. He was a full-time helper.

On November 1, 2004, the claimant told a co-worker, who did not speak English very well, to use a certain ring to secure a jack. Officer Roger Pint came by and shook the equipment, which had been jacked up and spoke sharply to the claimant because it was not secure. Mr. Pint reminded Mr. Sullivan that his leg had been broken in June 2004 because he had not secured the equipment properly and he needed to be more careful. The claimant said it was the co-worker who had set up the jack, but it was at the claimant's instructions the co-worker had used this particular ring.

The claimant worked out the day and then had his wife call in sick for him the next day, although he had already decided to quit. He did not come to work after that and when his wife picked up his check on November 5, 2004, she notified the employer that Mr. Sullivan had quit.

#### 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 without notice to the employer because he felt he was "being yelled at." The employer admitted to raising his voice sharply when he discovered the claimant had not secured the jack in a safe manner, the same type of situation, which had caused the claimant's leg to be broken earlier that year. The administrative law judge does not consider this to be unreasonable under the circumstances. Mr. Sullivan never brought any complaints or concerns to the employer, nor notified him he would quit unless these concerns were addressed. This is required by the provisions of Swanson v. EAB, 554 N.W.2d 294 (Iowa App. 1996). The claimant's failure to notify the employer of any problems, and to allow the employer a reasonable opportunity to correct them, establishes his resignation was without good cause attributable to the employer. He is disqualified.

#### DECISION:

The representative's decision of November 22, 2004, reference 01, is affirmed. William Sullivan is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/pjs