

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

DANIEL L PLATT
1922 WARREN ST
DAVENPORT IA 52803

L A LEASING INC - SEDONA STAFFING
612 VALLEY DR
MOLINE IL 61265

Appeal Number: 06A-UI-00283-CT
OC: 11/06/05 R: 04
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(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Daniel Platt filed an appeal from a representative's decision dated December 28, 2005, reference 02, which denied benefits based on his separation from Sedona Staffing. After due notice was issued, a hearing was held by telephone on January 26, 2006. Mr. Platt participated personally. The employer participated by Colleen McGuinty, Unemployment Insurance Administrator; Mike Johnson, On-Site Coordinator; and Gina Zolli, Supervisor. The hearing record was left open pending the receipt of additional evidence. The hearing reconvened and concluded on February 21, 2006.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Platt began working for Sedona Staffing in October of 2005. His last assignment was with Old Eagle Warehouse. He worked from 3:30 p.m. until 2:00 a.m., Monday through Thursday. On Wednesday, November 23, the plant manager approached some employees requesting volunteers to leave early due to a lack of materials to work with. The plant manager gave certain supervisors the authority to allow individuals to leave early if they chose to.

Mr. Platt's supervisor, Gina Zolli, announced at approximately 11:30 p.m. that employees could leave early. Mr. Platt left 15 minutes later. Ms. Zolli did not tell employees they had to check with the plant manager before leaving. On Monday, November 28, Mr. Platt contacted the on-site supervisor, Mike Johnson, regarding whether there was work. He was told he no longer had a job because he had walked off the job on November 23. He told Mr. Johnson that Ms. Zolli had given him permission to leave early. Mr. Johnson looked into the matter and called Mr. Platt back to advise him that he could not return to the assignment. Mr. Platt notified Sedona Staffing on November 29 that he was no longer on the assignment.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Platt was separated from employment for any disqualifying reason. The employer contended that he quit his employment when he walked off the job on November 23. This contention has not been established by the evidence. The employer acknowledged that employees were allowed to leave early on that date due to a lack of materials. The fighting issue appears to be whether Mr. Platt was required to notify the plant manager that he was leaving early. The administrative law judge has found herein that he was not told he needed to verify his intent to leave by speaking with the plant manager. The administrative law judge concludes from all of the evidence that Mr. Platt left work early on November 23 only after his supervisor announced that employees could leave early and that he was not notified of any additional requirements for leaving early.

Having concluded that Mr. Platt did not walk off the job on November 23, the administrative law judge must conclude that the separation was initiated by the employer when he was not allowed to return to work after November 23. A separation initiated by the employer is a discharge. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The evidence of record does not establish any acts of misconduct on Mr. Platt's part. Therefore, it is concluded that his separation was not for any disqualifying reason. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated December 28, 2005, reference 02, is hereby reversed. Mr. Platt was separated from Sedona Staffing for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/kjw