

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

DENNIS R STAUFFACHER
600 N KENTUCKY APT 203A
MASON CITY IA 50401

WINNEBAGO INDUSTRIES
PO BOX 152
FOREST CITY IA 50436-0152

Appeal Number: 04A-UI-01849-DT
OC: 06/29/03 R: 02
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 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Dennis R. Stauffacher (claimant) appealed a representative's February 11, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Winnebago Industries (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 10, 2004. The claimant participated in the hearing. Gary McCarthy appeared on the employer's behalf. During the hearing, Employer's Exhibit One was entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

The claimant started working for the employer on February 11, 1993. He worked full time on a schedule of 6:00 a.m. to 3:30 p.m. Monday through Friday as an advanced assembler/fabricator in the employer's motor home manufacturing business. His last day of work was January 15, 2004. He was incarcerated on at the end of the day on January 15 through January 20, 2004. The employer considered his employment terminated for job abandonment effective January 20, 2004.

The employer's policies provide that an employee will be considered to have quit if they are in jail for more than one work shift. If incarceration will only be one work shift, the employee must notify the employer or upon return from the one missed shift the employee will be subject to a three-day suspension. The claimant had previously arranged for vacation for Friday, January 16, so the employer did not consider that to be a missed shift due to incarceration. However, the claimant missed his shifts on both January 19 and January 20. Even though call-ins were made for those absences informing the employer that he was "detained" due to court proceedings, the employer concluded that the claimant had missed more than one shift due to incarceration and did not vary from the terms of the policy in concluding that the claimant's employment was ended.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

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.

An employee is deemed to have left without good cause if the employee is absent from work due to becoming incarcerated. 871 IAC 24.25(16). In this case, the employer even has a policy specifically on point of which the claimant was on notice that would permit one work shift to be missed prior to a conclusion of a quit, but not more than one. The fact that neither the claimant nor the employer could control when he would be released so that his release did not occur until after the second missed shift does not alter the conclusion that the claimant became unemployed due to his incarceration, and therefore was not unemployed through no fault of his own. Iowa Code Section 96.2. Benefits are denied.

DECISION:

The representative's February 11, 2004 decision (reference 01) is affirmed. The claimant is deemed to have voluntarily left his employment without good cause attributable to the employer. As of January 20, 2004, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

ld/kjf