

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

ZIJAD JUSIC  
8242 HARBACH BLVD #105  
CLIVE IA 50325

VICTORY LODGING INC  
RAMADA INN  
1600 NW 114<sup>TH</sup> ST  
CLIVE IA 50325

Appeal Number: 05A-UI-11367-S2T  
OC: 09/18/05 R: 02  
Claimant: Respondent (5)

**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)

871 IAC 24.1(113)a – Separations From Employment

STATEMENT OF THE CASE:

Victory Lodging (employer) appealed a representative's October 28, 2005 decision (reference 03) that concluded Zijad Jusic (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 23, 2005. The claimant participated personally. The claimant offered the testimony of a former co-worker, Enisa Hamzagic. Ms. Hamzagic testified with the aid of an interpreter, Zijo Suceska. The employer participated by Al Patel, Manager.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 29, 2005, as a full-time maintenance worker. On September 21, 2005, the employer told the claimant he was laid off because the employer could not afford the claimant's rate of pay. The employer told the claimant he might call him back to work in a few days. The employer never contacted the claimant to return to work.

The testimony of the employer and claimant was conflicting. The administrative law judge finds the claimant's testimony to be more credible because the employer was not an eye witness to the separation.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant was laid off for lack of work. For the following reasons the administrative law judge concludes he was.

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of labor-saving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The employer laid the claimant off for lack of work on September 21, 2005. When an employer suspends a claimant from work status for a period of time, the separation does not prejudice the claimant. The claimant is eligible to receive unemployment insurance benefits after September 21, 2005.

#### DECISION:

The representative's October 28, 2005 decision (reference 03) is modified with no effect. The claimant was laid off for lack of work and is, therefore, eligible to receive unemployment insurance benefits.

bas/tjc