

**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**

**CHARLOTTE M LEMATTY
211 CHESTNUT
MONTROSE IA 52639**

**SECURITAS SECURITY SERVICES USA
c/o SHEAKLEY UNISERVICE
PO BOX 429503
CINCINNATI OH 45242-0212**

**Appeal Number: 05A-UI-07198-HT
OC: 07/04/04 R: 04
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, 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) – Quit
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Securitas Security Services USA (Securitas), filed an appeal from a decision dated June 29, 2005, reference 04. The decision allowed benefits to the claimant, Charlotte LeMatty. After due notice was issued a hearing was held by telephone conference call on August 1, 2005. The claimant participated on her own behalf. The employer participated by Site Supervisor Daral Zastrow and was represented by TALX in the person of Dave Schwab.

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: Charlotte LeMatty was employed by Securitas from August 6, 2004 until May 30, 2005. She was a full-time security guard.

Ms. LeMatty had been given a written warning early in May for refusing to do rounds at her work site. Site Supervisor Daral Zastrow intended to give her another warning on her next scheduled day of work for failing to fill out her time cards the week before Memorial Day. She was scheduled to work May 30, 2005, but called in sick. While talking with Mr. Zastrow she told him she had intended to quit the next weekend but would quit that day. He told her to bring in her uniforms before she could pick up her last check.

Charlotte LeMatty has received unemployment benefits since filing an additional claim with an effective date of June 12, 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she 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 record establishes the claimant quit by giving a verbal resignation to her supervisor. However, the record does not establish the claimant had good cause attributable to the employer for quitting. The only evidence of a reason for quitting was possibly the information she received that she would be issued another warning. Quitting due to a reprimand cannot be considered good cause attributable to the employer under 871 IAC 24.25(28). The claimant is disqualified.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of June 29, 2005, reference 04, is reversed. Charlotte LeMatty is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible. She is overpaid in the amount of \$493.00.

bgh/kjf