

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

ERIC M MACDUFF  
APT E  
4622 – 1<sup>ST</sup> AVE NW  
CEDAR RAPIDS IA 52405-5514

QUALITY ASSEMBLY LTD  
3675 INDUSTRIAL AVE  
MARION IA 52302-3843

Appeal Number: 06A-UI-02882-HT  
OC: 01/01/06 R: 03  
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, 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 96.6(2) – Timeliness  
Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Eric MacDuff, filed an appeal from a decision dated February 3, 2006, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on March 30, 2006. The claimant participated on his own behalf. The employer, Quality Assembly, participated by General Manager Jeff Rudish. Exhibit D-1 was admitted into the record.

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: Eric MacDuff filed a claim for unemployment

benefits with an effective date of January 1, 2006. On February 3, 2006, Iowa Workforce Development issued a decision which disqualified him from receiving unemployment benefits. The decision was mailed to his address of record but was mis-delivered by the United States Postal Service to the mail slot of another resident in the building. Mr. MacDuff did not receive the decision until after the ten-day time period had expired.

The claimant was employed by Quality Assembly from February 2, 2005 until December 23, 2005. He was a full-time sales and marketing representative. He was laid off, along with all other employees, for the Christmas holiday. He was to return to work on January 2, 2006, but was a no-call/no-show. He did call in on January 3, 2006, and was allowed to take the remainder of the week off. On Friday, he came in to pick up his check and mentioned to General Manager Jeff Rudish that he was thinking of moving to California. The employer thought he had moved out of state and did not call him back to work.

Quality Assembly is not protesting the claimant's receipt of benefits.

#### REASONING AND CONCLUSIONS OF LAW:

The first issue is whether the appeal is timely.

Iowa Code Section 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

Due to a mis-delivery the claimant did not receive the decision in this case until after the ten-day time period had expired. He filed the appeal when he received the notice of a subsequent overpayment decision. The appeal shall be accepted as timely.

The next issue is whether the claimant is disqualified. The judge concludes he is not.

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 did not quit in order to move to California. That was a misunderstanding on the part of the employer who mistook Mr. MacDuff's speculation for positive plans. Work is not available to the claimant due to a slowdown in work at Quality Assembly and the employer does not protest the payment of benefits.

DECISION:

The representative's decision of February 3, 2006, reference 02, is reversed. Eric MacDuff is qualified for benefits, provided he is otherwise eligible.

bgh/kkf