

**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**

**MIKE L LAFOLLETTE
1748 – 250TH ST
RED OAK IA 51566-6027**

**MANPOWER TEMPORARY SERVICES
C/O TALX UCM SERVICES
PO BOX 66864
ST LOUIS MO 63166-6864**

**Appeal Number: 06A-UI-04754-HT
OC: 04/09/06 R: 01
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, Manpower, filed an appeal from a decision dated April 28, 2006, reference 01. The decision allowed benefits to the claimant, Mike LaFollette. After due notice was issued, a hearing was held by telephone conference call on May 18, 2006. The claimant participated on his own behalf. The employer participated by Staffing Specialist Todd Ashenfelter.

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: Mike LaFollette was employed by Manpower from June 24, 2005 until April 11, 2006. He was assigned to the Eaton Corporation.

The claimant left work early on Saturday, April 8, 2006. His brother was involved in a domestic dispute and asked him to come. He left work before the end of his shift and never returned or called back to either Eaton or Manpower. On April 10 and 11, 2006, he was attempting to bail his brother out of jail and assist him in his legal case, but did not call because he stated he did not have a phone. He acknowledged he could have walked to a pay phone but did not give a reason why he did not. The claimant assumed he had been fired and never returned to work, but the employer considered him a voluntary quit for job abandonment.

Mike LaFollette has received unemployment benefits since filing a claim with an effective date of April 9, 2006.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he 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 claimant maintains he was discharged but there is no evidence of a discharge in the record. Mr. LaFollette left work before the end of his shift on April 8, 2006, and never returned to work or contacted the employer regarding his absences. Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer LaGrange v. IDJS, (Unpublished, Iowa App. 1984).

Whatever the claimant's personal family problems may have been, he was still obliged to contact the employer to explain his absences. His failure to do this can only be considered job abandonment. And while the resignation may be for good personal cause, it does not constitute good cause attributable to the employer. 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 he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of April 28, 2006, reference 01, is reversed. Mike LaFollette is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$1,080.00.

bgh/kkf