

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

WILLIAM M LYONS
APT 4
912 W 2ND ST
WATERLOO IA 50702

LOWES HOME CENTERS INC
C/O TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-12032-HT
OC: 10/17/04 R: 03
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 - Quit

STATEMENT OF THE CASE:

The claimant, William Lyons, filed an appeal from a decision dated November 2, 2004, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 2, 2004. The claimant participated on his own behalf. The employer, Lowe's, participated by Human Resources Director Emily Zieser.

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: William Lyons was employed by Lowe's from

February 12, 2003 until March 13, 2004. He was a full-time loader. At the time of hire the claimant received copies of the employer's rules and policies. The attendance policy states any employee who misses more than five days in a rolling 12-month period, must provide a doctor's excuse for any further absences. The claimant had been absent March 5 and 8, April 5, July 13, September 11, October 1 and 12, and December 5 and 13, 2003.

On March 7, 10, 11 and 12, 2004, the claimant called in absent. He was advised of the policy which required a doctor's excuse for the days he missed and it was recommended he visit the walk-in clinic located next to the Lowe's store. On March 13, 2004, he turned in his vest to his supervisor, Andrea Aswegan, saying he had been unable to be seen by a doctor because no appointments were available until April 1, 2004. He had not attempted to be seen at the walk-in clinic and decided to quit.

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 quit because he was not able to provide a doctor's statement excusing him from work. The employer had notified him of the requirement and even attempted to help him by recommending the walk-in clinic which did not require an appointment. His decision not to attend the walk-in clinic or be seen in the emergency room, was entirely at his discretion. The record establishes the claimant did not have good cause attributable to the employer for quitting and he is disqualified.

DECISION:

The representative's decision of November 2, 2004, reference 01, is affirmed. William Lyons is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/tjc