

**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**

**MATTHEW W LINT  
640 BENTLEY DR APT #7  
MARION IA 52302**

**TEAM STAFFING SOLUTIONS INC  
116 HARRISON ST  
MUSCATINE IA 52761**

**Appeal Number: 05A-UI-08204-AT  
OC: 07-10-05 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 96-5-2-a - Discharge for Misconduct

STATEMENT OF THE CASE:

Matthew W. Lint filed a timely appeal from an unemployment insurance decision dated August 4, 2005 reference 01, which disqualified him for benefits. After due notice was issued, a telephone hearing was held August 25, 2005 with Mr. Lint participating. Claims Specialist Bill Ramsey participated for the employer, Team Staffing Solutions, Inc.

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: Matthew W. Lint was employed by Team Staffing Solutions from January 15, 2005, until he was discharged on or about June 1, 2005. He last

worked on assignment at Worley Distribution. Mr. Lint was discharged because of poor attendance. He left work early with permission on May 29, 2005, because of a family emergency. His fiancée was having complications with her pregnancy. He was not scheduled to work on May 30, 2005. On May 31, 2005 Mr. Lint called Worley Distribution, leaving a message for his supervisor indicating that he could not return to work because of the ongoing medical problem. On June 1, 2005 Mr. Lint found a voice message from his supervisor advising him that he need not return thereafter.

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence before the administrative law judge establishes that the claimant was discharged for misconduct in connection with his work. It does not.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
  - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Although excessive unexcused absenteeism is misconduct, absences due to medical conditions are not held against an employee provided the employee properly reports the absences to the employer. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984) and 871 IAC 24.32 (7). The best evidence before the administrative law judge, the claimant's sworn testimony, establishes that Mr. Lint received permission before leaving work on May 29, 2005, and attempted to contact his supervisor on May 31, 2005. Since the absences were for a medical reason, and since the claimant made a good faith effort to keep the employer aware of the situation, the administrative law judge concludes that the absences were excused for unemployment insurance purposes. No disqualification may be imposed.

#### DECISION:

The unemployment insurance decision dated August 4, 2005, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

dsb/kjw