

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**BART L SHAFFER**  
Claimant

**APPEAL NO. 07A-UI-01373-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SAC & FOX TRIBE  
MESKWAKI BINGO CASINO & HOTEL**  
Employer

**OC: 01/07/07 R: 03  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated January 30, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 21, 2007. Claimant participated and was represented by Terra Wood, Attorney at Law. Employer participated by Marla Stevens, Administrative Assistant and Mike Wanatee, Housekeeping Manager. Exhibit A was admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on May 25, 2006. Claimant went off work due to a non-work-related medical problem. Claimant's leave of absence expired July 7, 2006. Claimant called in sick July 8, 2006. Claimant knew that his leave of absence was to expire as evidenced by the call in for illness July 8, 2006. Claimant did not call in again until July 12, 2006. Claimant then asked for an extension of FMLA. Claimant had no more leave time available. Employer terminated the employment relationship because of lack of notice and because of an over extension of leave of absence.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he failed to return from a leave of absence. Claimant did call the employer one time after the leave expired but did not follow up with daily calls. Claimant's failure to call in each day, when ill, indicates job abandonment. The fact that claimant had no more FMLA available did not excuse claimant's duty to inform the employer of his absences. A

separation due to lack of FMLA is good cause attributable to employer. However claimant was not separated from employment until July 12, 2006 which is after he abandoned his job.

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.

**DECISION:**

The decision of the representative dated January 30, 2007, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/pjs