

**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**

**EDWARD M PLEDGE
1818 MT VERNON RD SE
CEDAR RAPIDS IA 52403**

**EXPRESS SERVICES INC
PO BOX 720660
OKLAHOMA CITY OK 73172**

**Appeal Number: 06A-UI-00182-SWT
OC: 08/07/05 R: 03
Claimant: Respondent (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)

871 IAC 24.1(113)a - Layoff

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated December 28, 2005, reference 07, that concluded claimant was working part-time or on-call as needed and was available for work. A telephone hearing was held on January 23, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Heather Wickman participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant started working for the employer on October 4, 2005, on an assignment at Midwest Metal Products. He was removed from the assignment, but not terminated by the employer, on December 5, 2005, for reporting to work smelling of alcohol.

After being removed from the assignment, the claimant remained available for additional assignments and accepted an assignment at Adidas starting December 14, 2005. He worked there on December 14, 15, and 16. He was scheduled to work on December 19, but called in before the start of his shift to report that he was going to be absent because he had an appointment at the Workforce Development Center regarding a permanent job. Later, the claimant received a call that the assignment was over. The claimant has remained available to accept assignments since December 19, 2005.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a. Although the claimant was removed from the assignment on December 5, he was not discharged and did not quit his job. Likewise, on December 19, the claimant called in to report that he was going to be absent from work but did not intend to quit working and was not discharged at that point. The claimant has remained available to accept assignments since he last worked for the employer. He has been laid off due to lack of work as defined by 871 IAC 24.1(113)a

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The unemployment insurance decision dated December 28, 2005, reference 07, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

saw/kjw