

**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**

**LIONEL PAGE  
1956 BEVER AVE SE  
CEDAR RAPIDS IA 52403**

**REINHART INSTITUTIONAL FOODS INC  
c/o HUMAN RESOURCES DEPARTMENT  
PO BOX 2228  
LA CROSSE WI 54602-2228**

**Appeal Number: 04A-UI-05070-ET  
OC 04-04-04 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, 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 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 22, 2004, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 25, 2004. The claimant participated in the hearing. Darcie Manning, Human Resources Supervisor, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time order selector for Reinhart Institutional Foods from February 13, 2004 to April 8, 2004. He was absent due to illness March 28, 30, and 31, April 1

and 4, 2004. He was scheduled to work April 6 and 7, 2004, but did not call the employer or show up for work. The employer sent the claimant FMLA and medical leave of absence paperwork April 5, 2004, with a due date of April 20, 2004, but the employer's records indicate the claimant called Supervisor Tony Paoli April 8, 2004, at 9:20 a.m. and stated he was quitting his job because he did not want to do such physical work. The claimant denies that he called the employer and voluntarily quit April 8, 2004, but he did not return to work after recovering from his illness and he filed for unemployment insurance benefits effective April 4, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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 has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2 (amended 1998). The claimant was absent due to properly reported illness March 28 through April 4, 2004. Although the claimant denies that he called the employer and voluntarily quit his job April 8, 2004, he did not contact the employer or show up for his scheduled shifts April 6 or 7, 2004, did not complete the paperwork for FMLA or a medical leave of absence, and filed for unemployment insurance benefits during the week ending April 10, 2004, which indicates he was aware his employment had ended earlier that week despite the fact the employer did not mail him a letter regarding the status of his employment until April 9, 2004. While the claimant may not have quit by calling the employer April 8, 2004, his failure to call the employer or return to work after April 4, 2004, constitutes a voluntary leaving of employment and he has not demonstrated that his leaving was for good cause attributable to the employer. Consequently, benefits are denied.

#### DECISION:

The April 22, 2004, reference 02, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

je/kjf