

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEROME A JACOBY**  
Claimant

**APPEAL NO. 09A-UI-07067-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KELLY SERVICES INC**  
Employer

**OC: 01/06/08**  
**Claimant: Respondent (1-R)**

Section 96.5-1 – Voluntary Quit  
Section 96.4-3 – Available for Work

**STATEMENT OF THE CASE:**

Kelly Services, Inc. filed a timely appeal from an unemployment insurance decision dated May 4, 2009, reference 08, that allowed benefits to Jerome A. Jacoby. After due notice was issued, a telephone hearing was held May 28, 2009 with Mr. Jacoby participating. Supervisor Amy Becker participated for the employer. Employer Exhibit One was admitted into evidence.

**ISSUE:**

Was the claimant's separation from employment a disqualifying event?

**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: Jerome A. Jacoby started working for Kelly Services, Inc. in January 2006. On March 5, 2008, he began an assignment at Foster, Inc. He last worked on March 12, 2008. He was absent on March 13 and 14, 2008 because of illness. He did not properly report his absence on the 13th. On March 17, 2008, Mr. Jacoby advised Kelly Services that he would not be available for two weeks because of medical appointments and appointments with the Veterans Administration concerning training. Kelly Services did not contact Mr. Jacoby after the end of those two weeks because he had not completed his assignment at Foster. Mr. Jacoby continued to receive unemployment insurance benefits during the weeks that he was not available for work.

**REASONING AND CONCLUSIONS OF LAW:**

The first question is whether the separation from employment was a disqualifying event. It was not. The evidence in the record persuades the administrative law judge that Mr. Jacoby discontinued his assignment because of medical reasons. He did not resign from the company; he merely stated that he would not be able to work for two weeks. The employer consented to the absence. The administrative law judge views this situation as an informal leave of absence. No disqualification may be imposed under these circumstances.

Nevertheless, it appears that Mr. Jacoby continued to receive unemployment insurance benefits during a time in which he was not available for work. The issue of availability or the potential of overpayment of benefits is remanded to the Unemployment Insurance Services Division.

**DECISION:**

The unemployment insurance decision dated May 4, 2009, reference 08, is affirmed. The claimant's separation from employment was not a disqualifying event. He is entitled to receive unemployment insurance benefits, provided he is otherwise eligible. The question of the claimant's availability for work is remanded to the Unemployment Insurance Services Division.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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