

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL DEVOLL
Claimant

APPEAL NO: 07A-UI-03047-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

**OC: 12/31/06 R: 02
Claimant: Respondent (1)**

Section 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

Kelly Services (employer) appealed an unemployment insurance decision dated March 21, 2007, reference 03, which held that Michael Devoll (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 11, 2007. The claimant participated in the hearing. The employer participated through Lisa Trainer, Staffing Supervisor. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant disqualified because he failed to contact the temporary employment agency within three working days after the completion of his assignment when notified of this requirement at the time of hire?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a temporary general laborer working full-time hours from January 12, 2007 through February 20, 2007 when he was removed from an assignment. At the time of hire, the employer advised the claimant he needed to contact the employer within three days of the completion of the assignment. The notification was contained within the employer's handbook and the claimant received a copy of the handbook. The claimant did not contact the employer for additional work because he thought he had been discharged.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. See Iowa Code sections 96.5-1 and 96.5-2-a. Iowa Code section 96.5-1-j provides that individuals employed by

a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer.

Iowa Code section 96.5-1-j 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, But the individual shall not be disqualified if the department finds that:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

The greater weight of the evidence indicates that the employer's end-of-assignment notification policy did not satisfy the requirements of Iowa Code section 96.5(1)(j). The employer's notification policy is contained within its employee handbook. Because the policy does not comply with Iowa Code section 96.5(1)(j), the claimant's failure to contact the employer after the completion of his last assignment does not disqualify him from receiving unemployment insurance benefits. Benefits are allowed.

DECISION:

The unemployment insurance decision dated March 21, 2007, reference 03, is affirmed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs