

**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**

**WILLIAM W BISHOP
2116 N STURDEVANT
DAVENPORT IA 52804**

**LF STAFFING SERVICES INC
LABOR FINDERS
c/o JON-JAY ASSOCIATES INC
PO BOX 182523
COLUMBUS OH 43218-2523**

**Appeal Number: 05A-UI-11883-HT
OC: 10/16/05 R: 04
Claimant: Appellant (2-R)**

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)

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The claimant, William Bishop, filed an appeal from a decision dated November 8, 2005, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on December 8, 2005. The claimant participated on his own behalf. The employer, Labor Finders, participated by Branch Manager Kimberly Rasche and Assistant Branch Manager Heather Mayfield.

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: William Bishop began employment with Labor Finder

on June 2, 2003. His last assignment began June 24, 2005 with McCubbin Construction for an indefinite period.

That assignment ended on October 14, 2005, when he was released by the client company. Labor Finders was notified and Branch Manager Kimberly Rasche talked to the claimant about the circumstances which caused the assignment to end.

Mr. Bishop did not return to the Labor Finders office to sign up for more work until October 21, 2005. During the week between that time he was consulting with doctors and lawyers about his injuries, caused by the accident which resulted in his dismissal from McCubbin.

The employer believes the claimant was not able and available for work due to injuries sustained in the accident but no decision has been made on that issue.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is not.

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 above Code section considers an employee to have voluntarily quit a temporary agency if that person failed to report for further assignment within three working days of the end of the previous assignment. However, it also states the employer must notify the employee in writing of the requirement. Labor Finders has not provided any evidence of a written rule or policy notifying employees of the requirement to report within three days of the end of the assignment. The only policy offered by the employer is that employees must report back after the end of the assignment for more work without any number of days being specified.

Ms. Rasche considers the employment to have ended October 16, 2005, after Mr. Bishop had failed to report for only one day. Even if this were the written policy of the employer, the issue of whether a claimant is qualified for benefits is governed by Iowa law, not the employer's policy. The record establishes the claimant did not quit and disqualification may not be imposed.

The issue of whether the claimant was able and available after October 16, 2005, should be determined by the Claims Section.

DECISION:

The representative's decision of November 8, 2005, reference 02, is reversed. William Bishop is qualified for benefits provided he is otherwise eligible.

The claimant availability for work after October 16, 2005, is remanded to the Claims Section for determination.

bgh/kjf