

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

GLORIA J AVANT-MOODY
2425 CHESTERFIELD
BETTENDORF IA 52722

RIVERSIDE STAFFING SERVICES INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04O-UI-11616-CT
OC: 07/25/04 R: 04
Claimant: Respondent (4)

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)g – Voluntary Quit/Requalification
Section 96.6(2) – Timeliness of Protests

STATEMENT OF THE CASE:

Riverside Staffing Services, Inc. (Riverside) filed an appeal from a representative's decision dated August 17, 2004, reference 04, which held that the protest to Gloria Avant-Moody's separation had not been timely filed. Pursuant to the appeal, a hearing was held on September 21, 2004. The September 24, 2004 decision of the administrative law judge affirmed the prior decision. The employer filed a further appeal with the Employment Appeal Board which, on October 26, 2004, remanded the matter for a new hearing because the tape of the prior hearing could not be transcribed.

Pursuant to the remand, due notice was issued scheduling the matter for a telephone hearing on December 10, 2004. Ms. Avant-Moody participated personally. The employer participated by Stacy Sheldon, Office Manager, and Doug Lentes of Talx UC Express. Exhibit One was admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Avant-Moody filed a claim for job insurance benefits effective July 25, 2004. Notice of the claim was mailed to the employer's designated representative on July 30, 2004. A protest was mailed on the employer's behalf on August 9, 2004. The protest is stamped received by Workforce Development on August 11, 2004. The protest does not contain a transmission line indicating it was received by fax.

Ms. Avant-Moody was employed by Riverside, a temporary staffing service, from August 11 until October 3, 2003. She was assigned to work full time as a legal secretary at a local law firm. The assignment could have led to permanent employment. Ms. Avant-Moody gave notice to Riverside on September 30 that October 3 would be her last day at the assignment. She indicated she was not happy with the assignment. She was unhappy because the lead secretary at the law firm would bring her work and then take it back to be reassigned to someone else. She would then return the same work to Ms. Avant-Moody later. Ms. Avant-Moody asked to speak with the office manager but a meeting was never scheduled. She did not discuss her issues with the attorney for whom she worked and did not notify Riverside that she was having problems. Ms. Avant-Moody did not put either the law firm or Riverside on notice that she was considering quitting because of work-related problems. Continued work would have been available if she had not quit.

The records of Workforce Development establish that Ms. Avant-Moody has earned at least ten times her weekly job insurance benefit amount in insured wages since leaving Riverside.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether the employer's protest was filed timely. The employer contended that it was filed by mail on August 9, 2004 while Workforce Development has held that it was filed by fax on August 11, 2004. Most persuasive on the issue is the absence of any identifying mark on the document which would tend to indicate that it had been faxed. There is usually a transmission line on a fax which identifies the fax machine number from which the document was sent. There was no testimony from any representative of Workforce Development as to the internal procedures for receiving protests. The administrative law judge resolves any doubt in favor of the employer and concludes that the protest was mailed on August 9, 2004 and was, therefore, timely filed. As such, the administrative law judge has jurisdiction over the separation issue.

The next issue in this matter is whether Ms. Avant-Moody was separated from employment for any disqualifying reason. She was separated from Riverside at her own initiative as she left an assignment before its completion. Because she initiated the separation before the assignment was over, it is considered a voluntary quit. See 871 IAC 24.26(19). An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Avant-Moody had the burden of proving that her quit was for good cause attributable to either Riverside or the law firm. Iowa Code section 96.6(2). She quit because she did not like the manner in which the

lead secretary assigned work. While it may have been annoying to Ms. Avant-Moody, the lead secretary had the responsibility for assigning work. It would seem to be within her discretion to reassign work as deemed necessary. The fact that the lead secretary would assign, remove, and re-assign the same work to Ms. Avant-Moody did not constitute good cause attributable to the employer for quitting. As such, the separation was a disqualifying event.

Ms. Avant-Moody had requalified for job insurance benefits by earning ten times her weekly benefit amount in insured wages prior to filing her claim effective July 25, 2004. As such, benefits are allowed but shall not be charged to Riverside.

DECISION:

The representative's decision dated August 17, 2004, reference 04, is hereby modified. The employer filed a timely protest to the claim. Ms. Avant-Moody voluntarily quit her employment with Riverside for no good cause attributable to the employer but has requalified for benefits. Benefits are allowed, provided she satisfies all other conditions of eligibility, but shall not be charged to the account of Riverside.

cfc/tjc