

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

KIMBERLY D OLSEM
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Appeal Number: 06A-UI-02265-AT
OC: 01/22/06 R: 02
Claimant: Appellant (2)

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 – Voluntary Quit from Temporary Employment
871 IAC 26.9(8) – Prehearing Discovery

STATEMENT OF THE CASE:

Kimberly D. Olsem filed a timely appeal from an unemployment insurance decision dated February 16, 2006, reference 01, which disqualified her for benefits. Before a final hearing was scheduled, the claimant's attorney submitted a set of interrogatories and a request for production of documents to the employer, Adecco USA, Inc. The employer did not respond to the discovery requests. Due notice was issued for a prehearing conference to be held on May 2, 2006 on the issue of whether sanctions should be imposed on the employer for failing in its obligation to respond. The employer did not respond to the notice. Thereupon, the claimant waived additional time, and the administrative law judge proceeded to a final hearing on the merits of the case.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Kimberly D. Olsem was employed by Adecco USA, Inc. from August 2005 through December 30, 2005 on assignment at Citi Card. When hired, Ms. Olsem was given a booklet and oral instructions to contact the employer within three days after the end of the assignment. Ms. Olsem did not do so.

The employer did not respond to the claimant's request for production of documents. Item number two of that request asks for:

Any and all written agreements or acknowledgements between the Claimant and ADECCO, including but not limited to any agreement that the Claimant would call into the employer within a certain number of days from the time her job ended.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in this record establishes that the claimant's separation from employment was a disqualifying event. It does not.

The general rule in Iowa is that an individual who works on a temporary assignment is not disqualified for unemployment insurance benefits if the individual completes the temporary assignment. See 871 IAC 24.26(19) and (22).

The legislature has created an exception for those temporary employment firms that comply with the provisions of Iowa Code section 96.5-1-j.

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 claimant provided the employer the opportunity to prove its case by supplying a copy of the documentation required by the statute. The fact that the employer disregarded two certified letters from the administrative law judge and the notice of the prehearing conference leads the administrative law judge to the conclusion that the employer has not followed the requirements set by the legislature. The oral notification and booklet referred to by the claimant fall short of the statute's requirements. No disqualification may be imposed.

DECISION:

The unemployment insurance decision dated February 16, 2006, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

cs/tjc