

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADAM D KALMES
Claimant

APPEAL NO. 12A-UI-10072-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC
Employer

OC: 07/08/12
Claimant: Respondent (4)

Section 96.5-1-a – Voluntary Quit/Other Employment

STATEMENT OF THE CASE:

The employer appealed from a representative's decision dated August 10, 2012, reference 02, that allows claimant benefits by reason of his June 8, 2012 employment separation. A telephone hearing was held on September 12, 2012. The claimant participated. Stacy Navarro, HR representative, participated for the employer.

ISSUE:

Whether claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the witness testimony, and having considered the evidence in the record, finds that: The claimant began work on a temp-to-hire assignment as full-time labor at Americold on February 6, 2012. He last worked on May 8 when his assignment was completed. The employer has a contract with Nite Owl Staffing to hire workers and oversee their jobs. The workers who are hired are considered Nite Owl employees.

The claimant was offered a temporary assignment at Jacobson through Nite Owl that he accepted beginning May 23. He was told on June 8 his services were no longer needed. He was not offered further employment by the employer or Nite Owl.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes the claimant voluntarily quit with good cause due to other employment effective June 8, 2012. No employer's account is charged for benefits.

Claimant completed his assignment for the employer on May 8, 2012 and accepted another temporary assignment for a new employer (Nite Owl) beginning May 23. While the employer has a contract to provide services for Nite Owl, claimant is paid by it, not the employer.

DECISION:

The department decision dated August 10, 2012, reference 02, is modified. The claimant voluntarily quit for other employment on May 23, 2012. Benefits are allowed, provided the claimant is otherwise eligible. No employer's account is charged.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css