

**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**

**JUAN BOTELLO
207 E 1ST ST
W LIBERTY IA 52776**

**CFA INC
1902 BROADWAY ST
IOWA CITY IA 52240-7001**

**Appeal Number: 04A-UI-10525-AT
OC: 08-29-04 R: 03
Claimant: Respondent (1)**

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
Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

CFA, Inc. filed a timely appeal from an unemployment insurance decision dated September 24, 2004, reference 03, which allowed benefits to Juan Botello. Due notice was issued for a telephone hearing to be held on October 14, 2004. Neither party responded to the hearing notice. The administrative law judge bases his decision on information in the administrative file and in the appeal letter.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Juan Botello's last employment with CFA, Inc., ended on September 9, 2004. On September 10, 2004, he contacted Rene to see if work was available. There was none. Beginning September 15, 2004, Mr. Botello accepted an assignment through Westaff.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Botello should be disqualified for unemployment insurance benefits. The administrative law judge finds no basis for disqualification from the evidence in this record. The general rule in Iowa remains that an individual employed on a temporary basis fulfills his or her contract of hire when each assignment is completed. See 871 IAC 24.26(19). An election not to report for a new assignment is not considered a voluntary quit. The general rule has been modified for temporary employment firms who meet the conditions established by Iowa Code section 96.5-1-j. If the company has complied with the statute's requirements, an individual's failure to contact the temporary employer within three working days after the end of an assignment is considered to be a voluntary quit. Although the evidence in this record does not establish that CFA, Inc. gave Mr. Botello proper notice of his responsibility to seek further assignment within three working days after September 9, 2004, it establishes that he did make such a contact. No disqualification may be imposed because of the separation from employment.

The employer's appeal letter states that Mr. Botello stopped contacting it daily as it required. While CFA may require that its employees contact it daily, Iowa Code chapter 96 and chapter 871 of the Iowa Administrative Code impose no such requirement. Finally, the appeal letter states that Mr. Botello declined work on September 14, 2004 because he was working for Westaff. 871 IAC 24.24(7) provides that an individual shall not be disqualified for refusing an offer of work if the individual is already gainfully employed.

After reviewing all issues raised by the employer and all the evidence in this record, the administrative law judge finds no reason for disqualification.

DECISION:

The unemployment insurance decision dated September 24, 2004, reference 03, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

pjs/tjc