

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

AMOS W CHANCHAN JR
76 MULBERRY ST APT #4
WATERLOO IA 50703

L A LEASING INC
SEDONA STAFFING
612 VALLEY DR
MOLINE IL 61265

Appeal Number: 04A-UI-12734-DWT
OC: 10/17/04 R: 03
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 are 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 Temporary Employment

STATEMENT OF THE CASE:

Amos W. Chanchan, Jr. (claimant) appealed a representative's November 22, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of L. A. Leasing, Inc., doing business as Sedona Staffing (employer), would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 20, 2004. The claimant participated in the hearing. Colleen McGuinty and Bryan Burton appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant registered to work for the employer's clients and was assigned to work for a client on August 9, 2004. Between August 9 and September 30, the claimant received two work-related injuries. The last injury required his hand to be in a cast. Even though the claimant could not work at the client's facility, the employer had him performing light-duty work in the employer's office from September 30 to October 6, 2004.

The claimant went to his doctor on October 6, 2004 and was released to return to work without any restrictions. On October 6 or 7, the claimant gave the doctor's release to Connie, the person who handled assignments for the client where the claimant had been working since August 9, 2004. The claimant understood this client did not want the claimant to return to work because he had already been involved in two work-related accidents. On October 6 or 7 when the claimant gave the employer his doctor's release, the employer did not have another job to assign to him. The light-duty work the claimant had been doing in the employer's office ended when he was released to work without any restrictions.

The first time the employer's records indicate the claimant contacted the employer about a job is October 15, 2004. The claimant, however, asserted he called the employer on a daily basis from October 7 through October 15 about another job assignment.

The claimant established a claim for unemployment insurance benefits during the week of October 17, 2004. The employer is not one of the claimant's base period employers.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code §96.5-1-j.

Even though the employer's records do not indicate the claimant called from October 7 until October 15, the claimant's testimony is credible that he gave the doctor's release to Connie on October 6 or 7. The employer's witnesses could not verify or deny that the claimant talked to Connie and gave her his doctor's release. When the claimant gave the employer the release to return to work without any restrictions, the employer did not have another job to assign to the claimant. The day the claimant gave the doctor's release to the employer and asked about another job satisfies the requirement of Iowa Code §96.5-1-j. It would then be reasonable for

the claimant to contact the employer on October 15, or about a week later, to find out if the employer then had a job to assign to the claimant.

A preponderance of the evidence establishes the claimant did not quit his employment without good cause. Instead, the employer did not have another job to assign to him after he was released to return to work without any restrictions. Since the employer is not a base period employer, the employer's account will not be charged during the claimant's current benefit year.

DECISION:

The representative's November 22, 2004 decision (reference 01) is reversed. The claimant did not quit his employment without good cause. Instead, the employer did not have any work for the claimant to do after he was released to work without any restrictions on October 6, 2004. As of October 17, 2004, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer is not one of the claimant's base period employers and will not be charged during the claimant's current benefit year.

dlw/smc