

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TIMOTHY L RUCKER**  
Claimant

**APPEAL NO. 12A-UI-00255-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MASTERSON PERSONNEL INC**  
Employer

**OC: 12/04/11**  
**Claimant: Appellant (2)**

Section 96.5-1-j – Three Day Contact with Temporary Employer

**STATEMENT OF THE CASE:**

Timothy Rucker filed a timely appeal from a representative's decision dated January 5, 2012, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on February 2, 2012. Claimant participated personally. The employer participated by Mr. Jim Robertson, Unemployment Insurance Benefit Manager.

**ISSUE:**

The issue is whether the claimant contacted the temporary employer within three days of his last working assignment.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Timothy Rucker was employed by Masterson Personnel, Inc. Claimant was last assigned to work at Premier Foods on November 14, 2011. Mr. Rucker was assigned to work as a production worker and was paid by the hour. His assignment with Premier Foods came to an end on December 6, 2011 and the claimant was informed by Masterson Personnel that the assignment had ended. At the time of the telephone call, Mr. Rucker personally inquired as to whether any additional work was available to him. Claimant again contacted the temporary employer on December 9, 2011 to pick up his paycheck. At that time the claimant again inquired as to whether there was any work available. On both occasions the claimant was told there was no additional work at that time.

It is the employer's position that company records do not reflect that the claimant re-contacted the company after being separated from employment on December 6, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant did not voluntarily leave employment.

Iowa Code § 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.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code § 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code § 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this

circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be re-assigned and continue working. In this case the claimant participated personally and testified under oath that he gave the employer notice of his availability on the day of separation, December 6, 2011 and again on December 9, 2011 when he again asked if there were any job assignments available to him. In this case the employer had notice of the claimant's availability because it notified him at the end of the assignment and the claimant requested additional assignments at that time. Benefits are allowed.

**DECISION:**

The representative's decision dated January 5, 2012, reference 01, is reversed. Claimant's separation from employment is attributable to the employer. Claimant had adequate contact with the employer about his availability as required by the statute. Benefits are allowed, providing the claimant is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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