

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

ANDRE VLAHOS
1215 – 16TH ST SE
CEDAR RAPIDS IA 52403

CAMBRIDGE TEMPOSITIONS INC
610 – 32ND AVE SW
CEDAR RAPIDS IA 52404

Appeal Number: 06A-UI-07679-ET
OC: 07-02-06 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, 2nd 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 Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from a decision dated July 26, 2006, reference 01, that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 15, 2006. The claimant did not respond to the hearing notice and did not participate in the hearing. Bob Poeschl, Sales Manager, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time forklift operator for Cambridge Tempositions last assigned at Pearsons Education Center from March 14, 2006 to April 13,

2006. On April 13, 2006, the client notified the employer that the claimant's assignment would most likely end that evening and stated it would have the claimant call the employer about further work. On April 21, 2006, the claimant went in to retrieve his check and the employer does not have any record of him asking about other work. On May 3, 2006, the claimant called and said he was available for work and preferred the second shift. The employer has no record of the claimant contacting the employer after that date. The employer's policy states that an employee must contact the employer within three working days of the end of an assignment for a new assignment or to state he is available for work. That particular policy is not contained on a separate piece of paper but is in the employer's handbook.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with good cause attributable to the employer.

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.

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 section 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 section 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 the temporary assignment. In this case, the employer had notice of the claimant's availability because the client told the employer the assignment was ending. The claimant also had completed the assignment and is not required to continue his employment with the temporary agency. Additionally, the employer's written notification of its policy requiring employees to call in for work on a weekly basis does not comply with Iowa Code section 96.5-1-j because it is not contained on a document separate from the contract of employment. Inasmuch as the claimant completed the contract of hire with the employer, the employer was aware the assignment ended and the employer did not meet the requirements of 96.5-1-j, no disqualification is imposed and benefits are allowed.

DECISION:

The July 26, 2006, reference 01, decision is affirmed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

je/pjs