

**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**

**JEFF KIDELSPERGER  
22480 – 300<sup>TH</sup> ST  
LONG GROVE IA 52756**

**L A LEASING  
SEDONA STAFFING  
612 VALLED DR  
MOLINE IL 61265**

**Appeal Number: 05A-UI-11050-JTT  
OC: 07/24/05 R: 04  
Claimant: Respondent (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 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1)(j) – Voluntary Leaving – Temporary Employment  
Section 96.3(7) – Recovery of Overpayment

STATEMENT OF THE CASE:

Sedona Staffing filed a timely appeal from the August 29, 2005, reference 03, decision that allowed benefits. After due notice was issued, a hearing was held on November 19, 2005. Claimant Jeff Kidelsperger did not respond to the hearing notice instructions, did not provide a telephone number for the hearing, and did not participate. Unemployment Benefits Administrator Colleen McGuinty represented the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. Jeff Kidelsperger completed his one and only assignment on July 19, 2005. That assignment had been full-time at Quad Cities Human

Resources. On July 13, 2005, Mike Olds of Quad Cities Human Resources notified Mr. Kidelsperger that the assignment would end on July 19, 2005 due to a slow down in the work. Mr. Olds also advised the temporary employment agency.

On December 9, 2004, Mr. Kidelsperger signed an "availability statement," by which he acknowledged the requirement that he contact Sedona Staffing within three working days of the completion of an assignment. Mr. Kidelsperger received a copy of the document. The availability statement concerned only the policy regarding the obligation to seek re-assignment. Mr. Kidelsperger did not contact Sedona Staffing within three working days of completing the assignment at Quad Cities Human Resources on July 19. Mr. Kidelsperger did not make contact with Sedona Staffing until July 29.

Mr. Kidelsperger established a claim for benefits that was effective July 24, 2005 and has received benefits totaling \$675.00.

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Kidelsperger fulfilled his obligation to contact the employer within three days of completion of his assignment. It does not.

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.

Since the claimant did not participate, the evidence in the record is limited to the testimony of Unemployment Benefits Administrator Colleen McGuinty. The evidence indicates that the employer had a written policy regarding re-assignment that complied with the requirements of Iowa Code section 96.5(1)(j). The evidence further indicates that Mr. Kidelsperger failed to meet his obligation to contact the employer within three days of completion of the assignment. Accordingly, Mr. Kidelsperger's separation from the employment is deemed a voluntary quit without good cause attributable to the employer. Mr. Kidelsperger is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account will not be charged for benefits paid to Mr. Kidelsperger.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Since Mr. Kidelsperger is disqualified for benefits, the \$675.00 in benefits he has received constitutes an overpayment that Mr. Kidelsperger must repay.

DECISION:

The Agency representative's August 29, 2005, reference 03, decision is reversed. The claimant's separation from the employment is deemed a voluntary quit without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account will not be charged for benefits paid to the claimant. The claimant is overpaid \$675.00.

jt/kjw