

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICHOLAS V HARRIS
Claimant

APPEAL NO. 09A-UI-16006-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STAFFING PROFESSIONALS LLC
Employer

**Original Claim: 09/06/09
Claimant: Appellant (2)**

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

STATEMENT OF THE CASE:

Nicholas Harris filed a timely appeal from the October 19, 2009, reference 03, decision that denied benefits based on an Agency conclusion that he had voluntarily quit without good cause on September 25, 2009. After due notice was issued, a hearing was held on December 1, 2009. Mr. Harris participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate.

ISSUE:

Whether the claimant's separation from the temporary employment agency was for good cause attributable to 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. Nicholas Harris worked a one-day assignment for the employer on or about September 25, 2009. Mr. Harris made contact with the employer the next week to get paid. Mr. Harris eventually worked an additional assignment for the employer.

REASONING AND CONCLUSIONS OF LAW:

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 employer has failed to participate and has thereby failed to present any evidence whatsoever to support an allegation that Mr. Harris voluntarily quit without good cause or otherwise separated from the temporary employment agency without good cause. The employer had failed to present any evidence to establish that it in any manner complied with the requirements of Iowa Code section 96.5(1)(j). Accordingly, the statute does not apply. The evidence in the record indicates that Mr. Harris completed his assignment on or about September 25, 2009. Pursuant to the administrative rule, completion of the assignment ended

Mr. Harris' obligation to the temporary employment agency and Mr. Harris was not obligated to seek a further assignment.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Harris' September 25, 2009 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Mr. Harris is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Harris.

DECISION:

The Agency representative's October 19, 2009, reference 03, decision is reversed. The claimant's September 25, 2009 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw