

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFREY A SACORA**  
Claimant

**APPEAL NO. 08A-UI-00630-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEMP ASSOCIATES - MARSHALLTOWN**  
Employer

**OC: 12/23/07 R: 03**  
**Claimant: Respondent (5)**

Section 96.5-1 – Voluntary Quit  
Section 96.6-2 – Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated January 17, 2008, reference 02, that concluded the employer protest could not be accepted because it was untimely. A telephone hearing was held on February 4, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Nancy Mullaney participated in the hearing on behalf of the employer.

**ISSUES:**

Did the employer file a timely protest of the claim?

Did the claimant voluntarily quit employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer from January 2007 to December 21, 2007. He completed his last assignment at Montezuma Manufacturing on December 21 and complied with the employer's work rules by contacting the employer within three days requesting a new assignment. No work was available.

The claimant contacted the employer again on January 8, 2008, and asked about an assignment but was again told that the employer did not have any work for him. He then told the representative that he was moving back to Cedar Rapids and asked if the employer had an office there. He was informed that the employer did not have a Cedar Rapids office. The claimant then provided his parent's mailing address in Cedar Rapids to send his W-2 form. The claimant never told the representative that he was quitting. No personal offers of work were made to the claimant, and he had no knowledge of the employer calling him about any jobs.

The claimant filed a new claim for unemployment insurance benefits with an effective date of December 23, 2007. A notice of claim was sent to the employer. The employer did not protest because it recognized the claimant had been laid off. The employer considered the claimant to have quit employment based on the phone call on January 8 that stated he was moving to

Cedar Rapids. As a result, the employer filed a notice of separation form on January 9, 2008, reporting the claimant had voluntarily quit employment.

**REASONING AND CONCLUSIONS OF LAW:**

As an initial matter, the evidence is clear that this case does not involve an untimely protest because the employer was not protesting the separation on December 21, but was reporting a later separation from employment.

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause, fail to accept suitable work, or who are discharged for work-connected misconduct. Iowa Code sections 96.5-1, 96.5-3, and 96.5-2-a. The claimant was laid off due to lack of work on December 21, 2007. He was never offered any work by the employer after December 21. He never quit his employment. I do not believe he ever informed the employer that he was leaving employment. Even if he had informed the temporary employer while he was laid off that he was moving and did not want to be considered for further assignments, this would not amount to a voluntarily quit of employment. The claimant is not required to wait indefinitely to be called back to work.

**DECISION:**

The unemployment insurance decision dated January 17, 2008, reference 02, is modified with no change in the outcome. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs