

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BOYD K HARRIS
Claimant

APPEAL NO. 10A-UI-05455-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
LABOR WORLD IA
Employer

OC: 02/28/10
Claimant: Appellant (2)

Section 96.5-1-j – Voluntary Leaving (Temporary Employment)

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated April 5, 2010, reference 01, which denied benefits based upon his separation from USA Staffing Inc. After due notice, a telephone hearing was held on May 25, 2010. The claimant participated personally. The employer participated by Michelle Rosa, Branch Manager and Mr. Josh Cunningham, Account Manager.

ISSUE:

At issue is whether the claimant quit employment with good cause attributable to the employer and whether the claimant notified the temporary Agency at the end of the assignment.

FINDINGS OF FACT:

Having considered the evidence in the record the administrative law judge finds: The claimant was employed by USA Staffing and last assigned to perform harvest work as a scale operator for the Progressive Ag Company from November 11, 2009 until November 30, 2009 when the assignment came to an end due to lack of work due to inclement weather. The claimant was informed that the assignment ended by Progressive Ag. USA Staffing was also aware that the assignment ended that day. In addition the claimant notified Josh Cunningham, an account manager, that the assignment ended. Although Mr. Harris sought additional work the temporary employment agency had no additional assignments available at that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left 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 evidence in the record establishes that Mr. Harris did inform USA Staffing that his assignment with Progressive Ag had come to an end on November 30, 2009 and that Mr. Harris was informed by Josh Cunningham, an account manager, that no other additional assignments were available at that time.

The purpose of the statute is to provide notice to the temporary agency employer that the client is available for work at the conclusion of the temporary assignment. In this case, the employer had notice of the claimant's availability because he notified them at the end of the assignment and there was no additional work available to him at that time. Benefits are allowed.

DECISION:

The representative's decision dated April 5, 2010, reference 01, is reversed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about his availability as required by statute. Benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css