

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENDRA K LYONS
Claimant

APPEAL NO. 10A-UI-08393-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 12/27/09
Claimant: Appellant (1)

Section 96.5(1)j – Temporary Employment
Section 96.6(2) – Timeliness of Appeals

STATEMENT OF THE CASE:

Kendra Lyons filed an appeal from a representative's decision dated January 28, 2010, reference 01, which denied benefits based on her separation from Team Staffing Solutions, Inc. (TSS). After due notice was issued, a hearing was held by telephone on July 29, 2010. Ms. Lyons participated personally. The employer participated by Sarah Fiedler, Claims Administrator.

ISSUE:

The first issue is whether Ms. Lyons' appeal should be deemed timely filed. If it is, then the issue becomes whether she was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision that is the subject of this appeal was mailed to Ms. Lyons at her address of record on January 28, 2010. She received the decision. She did not file an appeal by the February 7, 2010 due date because she was back at work at that point. She had not yet received any job insurance benefits when she received the disqualifying decision. Ms. Lyons was notified of an overpayment on June 9, 2010. She then filed an appeal on June 14, 2010.

Ms. Lyons began working for TSS in April of 2009. She worked full-time on an assignment with Dorn and Ward from May 12 until December 23, 2009. The plant manager notified her that the assignment was over. The employer, TSS, did not learn of the separation until approximately January 8, 2010, when it failed to receive payroll hours for Ms. Lyons. Neither Ms. Lyons nor the client company had notified TSS that the assignment was over.

REASONING AND CONCLUSIONS OF LAW:

An individual has ten days in which to appeal from a representative's decision. Iowa Code section 96.6(2). It is undisputed that Ms. Lyons did not file her appeal by the February 7, 2010

due date and she acknowledged that she made a decision not to appeal. However, that does not end the inquiry. The administrative law judge must still determine whether there was good cause for not filing the appeal until June 14, 2010. Ms. Lyon did not file an appeal by the February 7 due date because there were not going to be any adverse consequences to the decision. The decision disqualified her from receiving benefits but she was already back at work. Since she had not received any benefits, there was not going to be any resulting overpayment.

It was not until June 9, 2010 that Ms. Lyons was notified that she had been overpaid as a result of the January 28, 2010 decision. Since she did not know of the overpayment during the ten days in which she had to appeal from the January 28 decision, she did not have an opportunity to make an informed decision about whether to pursue an appeal. Whether a disqualifying decision will result in an overpayment of benefits may be a crucial factor in an individual's decision about whether to pursue an appeal. Because Ms. Lyon did not know of any overpayment or potential overpayment during the ten-day appeal period, the appeal filed on June 14, 2010 shall be deemed timely filed. Therefore, the administrative law judge has jurisdiction over the separation issue.

Ms. Lyons was hired for placement in temporary work assignments. An individual so employed must complete her last assignment in order to avoid the voluntary quit provisions of the law. See 871 IAC 24.26(19), (22). The parties do not dispute that Ms. Lyons completed her last assignment. However, she did not notify TSS that the assignment was over within three working days of when it concluded. The assignment ended on December 23 and the employer did not learn that it was over until January 8, more than three working days later. Neither Ms. Lyons nor the client company notified TSS that it was over. Inasmuch as the required notice was not given within three working days, the separation on December 23, 2009 was a disqualifying event. As such, benefits are denied as of December 27, 2009, the effective date of the claim for job insurance benefits.

DECISION:

The representative's decision dated January 28, 2010, reference 01, is hereby affirmed. Ms. Lyons left her employment with TSS for no good cause attributable to the employer. Benefits are denied until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw