

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

TINA M HILDEBRAND
P O BOX 384
STRAWBERRY POINT IA 52076

ADECCO USA INC
c/o TALX UC EXPRESS
P O BOX 66736
ST LOUIS MO 63166-6736

Appeal Number: 04A-UI-00726-DWT
OC 06/01/03 R 04
Claimant: Respondent (1)

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 are 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1-j – Temporary Employment Firm

STATEMENT OF THE CASE:

ADECCO USA, Inc. (employer) appealed a representative's January 13, 2004 decision (reference 01) that concluded Tina M. Hildebrand (claimant) was qualified to receive unemployment insurance benefits, and the employer's account could be charged for benefits because the claimant's separation did not disqualify her from receiving unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 13, 2004. The claimant participated in the hearing. Allyson Rushford, the office supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant registered to work for the employer's clients in October 2003. The employer assigned the claimant to work at Exide Technologies on October 20, 2003. Exide Technologies informed the employer that the claimant could not work at this assignment after December 9, 2003 because she had been absent from work (five times) too much.

On December 9, 2003, the employer told the claimant she was discharged. The claimant understood this meant the employer would not assign her to another job. The employer would have assigned the claimant to another job, but the employer did not have another job to assign to the claimant. Even though the employer tells individuals to contact the employer about their continued availability and they do not, the employer will contact the person if the employer has a job for that person. The claimant has not contacted the employer about a job after December 9, 2003.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if a claimant voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if she fails to notify the employer. Iowa Code §96.5-1-j.

The purpose of Iowa Code §96.5-1-j is to give the employer the opportunity to offer an individual another job so the individual remains employed and the employer can satisfy the needs of their clients. In this case, the employer told the claimant she was being terminated from her assignment. The employer did not have another job to offer to the claimant and has not had any job to offer her since December 9, 2003. If the employer had had a job, the employer would have contacted the claimant about the job. The claimant's understanding that she was discharged and the employer would not assign her to another job is reasonable when the employer told her she was terminated because of her attendance. In this case, Iowa Code §96.5-1-j does not apply and the reasons for the claimant's separation do not disqualify her from receiving unemployment insurance benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's January 13, 2004 decision (reference 01) is affirmed. The reasons for the claimant's December 9, 2003 employment separation do not disqualify her from receiving unemployment insurance benefits. As of December 7, 2003, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

dlw/s