

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DERRICK R BREWER
Claimant

APPEAL NO. 10A-UI-05864-H

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
Employer

**Original Claim: 03/07/10
Claimant: Appellant (2)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

Derrick Brewer filed an appeal from a decision dated April 9, 2010, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, on May 25, 2010. The claimant participated on his own behalf. The employer, USA Staffing, was paged in the main waiting area at 11:00 a.m. and 11:08 a.m. No one responded and the employer did not participate.

ISSUE:

The issue is whether the claimant quit work without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony of the witness, the administrative law judge finds: Derrick Brewer began employment with USA Staffing in March of 2005. He began going to school in the evenings in 2007 and the employer was aware of this. His evening classes did not begin until approximately 5:00 p.m. and he is available to work during the day. He has continued to work whenever USA Staffing has called him to work, usually at a client, Mrs. Clark's. The last day he actually worked was the day prior to the hearing, for one day at Mrs. Clark's.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 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.

The record establishes the claimant did not voluntarily quit work. He is still employed as he has been for the last five years, and is going to school in the evening. The evening schedule does not interfere with his availability to accept assignments during the day.

DECISION:

The representative's decision of April 9, 2010, reference 01, is reversed. Derrick Brewer is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw