

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN FISHER
Claimant

APPEAL NO: 10A-UI-03478-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVERSIDE STAFFING SERVICES INC
Employer

OC: 12-20-09
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 24, 2010, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 19, 2010. The claimant participated in the hearing. Karrie Minch, Senior Staffing Consultant, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily quit his employment from a temporary employment firm.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed through the employer performing various temporary work from September 17, 2009 to January 4, 2010. The claimant reported back to his employer February 8, 2010 and started a new assignment February 17, 2010. The employer deemed the claimant to have voluntarily quit, as he did not call in within three days after the completion of his assignment on January 4, 2010. The employer's policy states that employees are to call in at the end of an assignment to notify the employer of its availability. This policy is not contained on a separate document.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not voluntarily quit his employment.

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.

Section 96.5(1)j requires that the temporary placement firm provide written notice of the three-day reporting requirement. The law requires that the notice be on a separate document and not combined with other terms and conditions of the employment. The administrative law judge believes this requirement is to ensure that the three-day requirement is not lost in the myriad of other materials usually provided at the time of hire. In the case at hand, the three-day requirement is contained on a document that addresses other terms of the employment. The administrative law judge concludes that the notice provided to the claimant does not conform to the requirements of section 96.5(1)j. Therefore, its provisions cannot form the basis of a disqualification from benefits. As such, the claimant may not be disqualified for failing to seek reassignment within three working days of the end of his assignment on January 4, 2010.

DECISION:

The February 24, 2010, reference 03, decision is reversed. The claimant is eligible to receive unemployment insurance benefits, provided he meets all other eligibility requirements.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs