

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFF R WEBER
Claimant

APPEAL NO. 09A-UI-03226-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
Employer

**Original Claim: 01/04/09
Claimant: Respondent (1)**

Section 96.5-1-j – Voluntary Leaving/Temporary Employment

STATEMENT OF THE CASE:

USA Staffing, Inc. appealed a representative's decision dated February 18, 2009, reference 01, which held the claimant eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 25, 2009. Although Mr. Weber submitted a telephone number for the hearing, it was not a correct number and the claimant did not call in at the hearing time as instructed. The employer participated by Mr. Chris Burt, branch manager.

ISSUE:

At issue in this matter is whether the claimant voluntarily quit employment for reasons attributable to the employer and whether the claimant notified the employer that his most recent assignment had concluded within three working days.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered the evidence in the record, finds: Mr. Weber was employed by USA Staffing, Inc., a temporary employment firm, beginning in the year 2005. The claimant was last assigned to work a match-to-hire assignment at City Carton and Recycling Company. The assignment began in March of 2008. The assignment ended May 13, 2008, and Mr. Weber contacted the temporary employment service that day to report the assignment has ended and to see if other work was available. No other assignments were available to the claimant at that time. Later, the employer had difficulty in locating Mr. Weber for additional assignments that may have been available to him.

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.

The evidence in the record establishes that Mr. Weber was informed by the client employer on May 13, 2008, that his temporary assignment had ended. The evidence in the record establishes that Mr. Weber contacted the temporary employment service within three working days to report that the assignment had ended and to seek other employment. No other employment was available to the claimant at that time.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of the temporary assignment. In this case, the employer had notice of the claimant's availability, because Mr. Weber followed the requirements of the agreement and contacted the employer within three working days of the end of the assignment. No work was available to the claimant at that time. Benefits are allowed.

There may be an issue regarding Mr. Weber's ongoing availability for work. This matter may be the subject of an investigation of Iowa Workforce Development for the purpose of determining the claimant's availability.

DECISION:

The representative's decision dated February 18, 2009, reference 01, is affirmed. 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, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw