

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

J MARTIN ALVAREZ LEDESMA
Claimant

APPEAL NO. 11A-UI-13799-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 04/03/11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

J. Martin Alvarez Ledesma filed an appeal from an unemployment insurance decision dated May 12, 2011, reference 02, that disqualified him for benefits. After due notice was issued, a telephone hearing was held December 13, 2011 with Mr. Alvarez Ledesma participating. Claims Adjuster Sarah Fiedler participated for the employer, Team Staffing Solutions, Inc. Exhibit One was admitted into evidence. Patricia Vargas served as the interpreter.

ISSUES:

Has the claimant filed a timely appeal?
Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

J. Martin Alvarez Ledesma was employed by Team Staffing Solutions, Inc. on assignment with RockTenn from November 2010 until he walked off the job February 10, 2011, saying that he needed to use the restroom. He did not return to the line. Contacted later by telephone, he told Refugio Cisneros that he could not keep up with the work and did not wish to return to the assignment. Further work was available had he returned.

Mr. Alvarez Ledesma filed a claim for unemployment insurance benefits in April 2011. He received a fact-finding decision dated May 12, 2011 disqualifying him for benefits. He understood that benefits were being withheld. He stopped filing weekly claims. A friend told him he could find information on filing an appeal in the booklet he had received from the agency. Mr. Alvarez Ledesma did not file an appeal until October 18, 2011.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.6-2 gives individuals ten days from the date of a fact-finding decision to file an appeal. The Iowa Supreme Court has ruled that the time limit is jurisdictional. See Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979). In the absence of a timely appeal, an administrative law judge cannot change an earlier fact-finding decision.

The evidence establishes that Mr. Alvarez Ledesma received the fact-finding decision and realized that it disqualified him for benefits. It establishes that he received advice to contact agency documents to find out how to file an appeal. Mr. Alvarez Ledesma testified that he knew that appeal information was available. He did not file his appeal, though, until October. The administrative law judge concludes that the claimant could have but did not file a timely appeal. The fact-finding decision has become final.

DECISION:

The unemployment insurance decision dated May 12, 2011, reference 02, has become final and remains in effect. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs