

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY FOWLER
Claimant

APPEAL NO. 09A-UI-07753-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
Employer

**Original Claim: 04/12/09
Claimant: Appellant (2/R)**

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

Timothy Fowler (claimant) appealed an unemployment insurance decision dated May 19, 2009, reference 02, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with USA Staffing (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 15, 2009. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted and, therefore, did not participate. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant failed to contact the temporary employment agency within three working days after the completion of his assignment when notified of this requirement at the time of hire.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired as a temporary general laborer on July 30, 2008. At the time of hire, the claimant signed an availability statement that advised him of the requirement to check in for additional work after the completion of an assignment. The employer requires employees to check in within three working days after an assignment ends to provide the employer notification of the claimant's availability and failure to do so would be considered as a voluntary quit.

The claimant's last assignment ended on April 8, 2009. He checked in for additional work but none was available. Consequently, he filed a claim for unemployment insurance benefits. The employer made a job offer on April 15, 2009, but the claimant refused the offer because he said he was getting unemployment benefits. The job offer and refusal have not been adjudicated and this case is remanded for further determination on those issues.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code § 96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualification for unemployment insurance benefits after a voluntary separation.

Iowa Code § 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 shows the claimant checked in for additional work at the completion of his last assignment but no work was available. Consequently, he is considered to have voluntarily quit with good cause attributable to the employer and benefits are allowed.

The case is remanded for further determination on whether the claimant unreasonably refused a suitable job offer made by the employer.

DECISION:

The unemployment insurance decision dated May 19, 2009, reference 02, is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible. The job offer and refusal were not included in the Notice of Hearing for this case, and the case will be remanded for an investigation and determination on those issues. 871 IAC 26.14(5).

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw