

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHEN N BURGER
Claimant

APPEAL NO. 11A-UI-12975-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

**OC: 08/28/11
Claimant: Respondent (4)**

Section 96.5(1)a – Quit/Other Employment

STATEMENT OF THE CASE:

The employer, Team Staffing, filed an appeal from a decision dated September 27, 2011, reference 01. The decision allowed benefits to the claimant, Stephen Burger. After due notice was issued, a hearing was held by telephone conference call on October 26, 2011. The claimant provided a telephone number to the Appeals Section. That number was dialed at 1:59 p.m. and the only response was a voice mail. A message was left indicating the hearing would proceed without the claimant's participation unless he contacted the Appeals Section prior to the close of the record. By the time the record was closed at 2:06 p.m., the claimant had not responded to the message and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. The employer participated by Claims Administrator Sarah Fiedler.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Stephen Burger was employed by Team Staffing from January 4 until August 12, 2011. His last assignment began July 14, 2011, at Fabricators Plus for an indefinite period of time. On August 10, 2011, a Team Staffing representative contacted the claimant and told him the client company did not want him to return due to attendance problems. On August 12, 2011, Mary Kirchner contacted him to offer him another assignment. At that time, Mr. Burger said he was starting work on Monday, August 15, 2011, through another temporary agency and was not interested in accepting the assignment from Team Staffing.

The records of Iowa Workforce Development indicate wages were reported under the claimant's social security number from Temp Associates after his separation from Team Staffing.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant quit Team Staffing in order to accept work with Temp Associates, which he did accept. He worked for the new employer subsequent to his separation from Team Staffing. Under the provisions of the above Code section, the claimant has requalified for benefits.

DECISION:

The representative's decision of September 27, 2011, reference 01, is modified in favor of the appellant. Stephen Burger is qualified for benefits, provided he is otherwise eligible. The account of Team Staffing shall not be charged with benefits paid to the claimant after August 12, 2011.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw