

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CECIL D THOMPSON
Claimant

APPEAL NO. 10A-UI-02750-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STAFFING PROFESSIONALS LLC
Employer

OC: 12/27/09
Claimant: Respondent (2-R)

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The employer, Staffing Professionals, filed an appeal from a decision dated February 10, 2010, reference 01. The decision allowed benefits to the claimant, Cecil Thompson. After due notice was issued, a hearing was held by telephone conference call on April 5, 2010. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Human Resources Coordinator Stacy Navarro. Exhibit One was admitted into the record.

ISSUE:

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

FINDINGS OF FACT:

Cecil Thompson was employed by Staffing Professionals from June 13, 2008 until October 26, 2009. His last assignment began October 21, 2009, at Mid American. The client company told him not to come back on October 21, 2009, but did not notify Staffing Professionals he had been released. No contact was made to the employer until December 2009.

At the time of hire Mr. Thompson signed a “temporary employee contract” which informed him he was to notify Staffing Professionals within three working days of the end of each assignment to request more work. It further informed him if he did not do so, he would be considered a voluntary quit.

Cecil Thompson has received unemployment benefits since filing a claim with an effective date of December 27, 2009.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date

of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant was informed in writing of the requirement to contact Staffing Professionals within three working days of the end of each assignment to request more work or he would be considered a voluntary quit. He failed to comply with this requirement and is considered a voluntary quit without good cause attributable to the employer under the provisions of the above Code section. He is disqualified.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue

of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which he is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

DECISION:

The representative's decision of February 10, 2010, reference 01, is reversed. Cecil Thompson is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css