

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT W TITMUS
Claimant

APPEAL NO. 11A-UI-00244-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**AVENTURE STAFFING & PROFESSIONAL
SERVICES LLC**
Employer

OC: 05/30/10
Claimant: Appellant (2)

871 IAC 24.26(19) – Voluntary Quit Spot or Casual Labor
Iowa Code § 96.5(1)j – Voluntary Leaving – Temporary Employment

STATEMENT OF THE CASE:

Claimant filed an appeal from a representative's December 30, 2010, reference 02, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on February 11, 2011. The claimant participated. The employer participated by Nicole Postello, Human Resource Assistant.

ISSUE:

The issue is whether claimant voluntarily quit his work from a temporary employment firm or whether the claimant completed his spot labor assignment.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed through the employer performing various temporary work from July 15, 2010 through November 24, 2010. On September 27, 2010 claimant was assigned to work a long-term assignment with Freudenberg. The assignment ended on November 24, 2010, a Wednesday, when Freudenberg went out of business. Thursday and Friday the employer was closed for Thanksgiving. The next business day was Monday November 28, 2010. The claimant contacted the employer on December 1, 2010 for additional work. That was within 3 business days of the end of the assignment.

The company the claimant was assigned to hires temporary workers on an ongoing basis and used temporary employees rather than hiring permanent employees. The number of temporary employees depends upon the needs of the company. It is not related to specific seasons, projects, absences, labor market shortages, or temporary skills. The claimant performed for the company he was assigned.

The notification of the three-day requirement was part of the employment agreement and not a separate document as required by Iowa Code § 96.5(1)j.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not voluntarily quit his employment.

The purpose of the Iowa Code 96.5-1-j is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. Before applying the statute, an examination of the facts is required to determine if the employer and the claimant meet the definitions under the statute. The employer to be covered must be a “temporary employment firm.” 96.5-1-j(2) A temporary employment firm is defined as a person engaged in the business of hiring temporary employees. “Temporary employees’ are defined as: ‘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.” 96.5-1-j(1).

The law requires an employee who is covered provide “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.” Iowa Code 96.5-1-j. The claimant did receive this document. The document complied with this section because it was not a separate document. Also, the claimant complied and reported back within three business days.

The claimant was a temporary employee. He reported back within three working days of the end of the assignment and of the availability to assignment. The claimant is properly considered a casual or spot labor worker under 871 IAC 24.26(19). The claimant was assigned to and completed a specific assignment. The claimant had no obligation to report back to the employment agency at the end of the assignment given that the notice of three days was not properly provided.

DECISION:

The December 30, 2010, reference 02, decision is reversed.

The claimant is eligible to receive unemployment insurance benefits, provided the claimant meets all other eligibility requirements.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/pjs