

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

DERIK EVANS	:	
	:	HEARING NUMBER: 21B-UI-12040
Claimant	:	
	:	
and	:	EMPLOYMENT APPEAL BOARD
	:	DECISION
MASTERSON PERSONNEL INC	:	
	:	
Employer	:	
	:	

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1-J

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board, one member dissenting, finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Claimant, Derik Evans, worked for Masterson since 2019 and was last assigned to Machine Tool Engineering where he ran CNC as a machine operator on a full-time basis. On October 31, 2019, the Claimant received a copy of the Employer's three-day notification policy. On June 10, 2020, the Employer contacted the Claimant to inform him he was no longer needed, as the entire section shift was eliminated. The Claimant called the Employer back that same day to inquire if there was anything else available. He spoke to a woman who told him 'no' due to the pandemic. He called back again to inquire about how to file for unemployment benefits. The Employer was unsure if the Claimant called in.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits: *Voluntary Quitting*. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

j. The individual is a temporary employee of 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.

The findings of fact show how we have resolved the disputed factual issues in this case. We have carefully weighed the credibility of the witnesses and the reliability of the evidence. We attribute more weight to the Claimant's version of events. The record establishes the Claimant had knowledge of the Employer's three-day notification policy. When the Claimant learned of the end of his assignment, he called in later that same day to request more work, but was promptly told there was nothing available at that time. Although the Employer argues there was nothing in their records to support his call, the Employer also admitted it was possible he called in and it wasn't documented. Based on this record, we conclude the Claimant complied with the Employer's notification policy, and did not quit his employment.

DECISION:

The administrative law judge's decision dated December 4, 2020 is **REVERSED**. The Employment Appeal Board concludes that the Claimant did not voluntarily quit his employment, as he timely requested reassignment, but there was no work available. Accordingly, he is allowed benefits provided he is otherwise.

James M. Strohman

Ashley R. Koopmans

DISSENTING OPINION OF MYRON R. LINN:

I respectfully dissent from the decision of the Employment Appeal Board; I would affirm the decision of the administrative law judge in its entirety.

Myron R. Linn

AMG/fnv