

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

TIM M LANE SR  
4681 HYPERION DR  
NORWALK IA 50211

DES STAFFING SERVICES INC  
3326 INDIANOLA AVE  
DES MOINES IA 50315

Appeal Number: 04A-UI-03436-AT  
OC: 04-06-03 R: 02  
Claimant: Respondent (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5-1-j – Voluntary Quit from Temporary Employment

STATEMENT OF THE CASE:

DES Staffing Services, Inc. filed a timely appeal from an unemployment insurance decision dated March 18, 2004, reference 04, which allowed benefits to Tim M. Lane, Sr. After due notice was issued, a telephone hearing was held April 9, 2004 with Iowa Operations Director Brad Russell participating for the employer. Mr. Lane did not provide a telephone number at which he could be contacted.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Tim M. Lane, Sr. was employed by DES Staffing

Services on assignment to a business known as Mohawk. Mr. Lane worked as a driver. Although not hired to drive overnight runs, Mohawk began requiring him to take such shifts on a regular basis. He had to leave the assignment because he could not take overnight routes because he has custody of his son. He sought reassignment from DES. DES set up an interview for Mr. Lane with another business. However, before the interview, Mr. Lane advised DES that he had found other work.

#### REASONING AND CONCLUSIONS OF LAW:

The relief requested by the employer in this case is whether it can be relieved of charges as of February 25, 2004, the date that Mr. Lane advised that he had found other employment. The administrative law judge concludes that the employer cannot be relieved of charges.

The administrative law judge concludes that Mr. Lane's separation from the Mohawk assignment was because of a substantial change in the conditions of employment and that Mr. Lane complied with the provisions of Iowa Code Section 96.5-1-j by seeking further assignment from the employer. He then found work on his own.

This does raise the circumstance contemplated by Iowa Code Section 96.5-1a because Mr. Lane was in essence on a temporary layoff at the time that he found other employment. The situation is analogous to that of an individual on layoff who refuses recall from layoff because he has found other work in the meantime. The employer who laid off the claimant is not relieved of charges under those circumstances.

#### DECISION:

The unemployment insurance decision dated March 18, 2004, reference 04, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible. The employer cannot be relieved of charges.

tjc/b