

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

KATHIE M NELSON
315 – 2ND ST
CHATSWORTH IA 51011

ADECCO USA INC
c/o TALX UC EXPRESS
PO BOX 66736
ST LOUIS MO 63166-6736

Appeal Number: 05A-UI-02550-RT
OC: 01-09-05 R: 01
Claimant: Appellant (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, 4th 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 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Kathie M. Nelson, filed a timely appeal from an unemployment insurance decision dated March 1, 2005, reference 04, denying unemployment insurance benefits to her. After due notice was issued for a telephone hearing on March 29, 2005 at 9:00 a.m., the employer chose not to participate in the hearing. The administrative law judge attempted twice to call the claimant at the telephone number that she had called in where she could purportedly be reached for the hearing. On both occasions the administrative law judge reached the voice mail for a "Kathie." These calls were at 9:03 a.m. and 9:05 a.m. The administrative law judge left a message for the claimant on both occasions that if the claimant wanted to participate in the hearing, she needed to call within 15 minutes after the start of the hearing or 9:15 a.m. The administrative law judge provided an 800 number for the claimant to call. As of 9:20 a.m., the claimant had not called the administrative law judge. Consequently, no hearing was held. The

administrative law judge takes official notice of Iowa Workforce Development unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having examined the record, the administrative law judge finds: An authorized representative of Iowa Workforce Development issued a decision in this matter on March 1, 2005, reference 04, determining that the claimant was not eligible to receive unemployment insurance benefits because records indicate she voluntarily quit her employment on December 23, 2004 when she failed to notify the employer, a temporary employment firm, within three working days of the completion of her last assignment and she had been told in writing of her responsibility to do so.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

871 IAC 24.23(11) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(11) Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements.

Neither party participated in the hearing. In its protest letter, the employer's representative stated that the claimant is considered to have voluntarily quit after failing to maintain contact with the employer for further assignment as required by employer's policy after an assignment had been completed. At fact finding, the claimant denied that she quit her job but conceded that she had finished a project. It appears that the employer is a temporary employment agency and the claimant was offered an assignment. The claimant stated at fact finding that when she could not do ladders she was told initially that she could help on the bottom of the ladder, but later was told that if she could not go up a ladder, her assignment would have to end. The claimant also stated at fact finding that she did not contact the temporary employment agency herein after she was laid off because she did not know she was supposed to. The claimant conceded that she had filled out her papers like everyone else did. The employer participated in fact finding and stated that the claimant is considered to have voluntarily quit after failing to maintain contact with the employer for further assignment as required by the employer's policies. The employer provided certain documents to the administrative law judge for the hearing, copies of which were sent to the claimant. Although there was no foundation laid for these documents, the administrative law judge does note that there is a separate document called a commitment sheet which the claimant appears to have signed stating that the claimant agrees that she must contact the temporary employment firm herein, Adecco for available work upon completion of each assignment and that failure to do so upon completion of an assignment would be considered a voluntary quit.

Although neither party participated in the hearing, the administrative law judge nevertheless concludes that there is a preponderance of the evidence in the administrative file that the employer is a temporary employment firm and that the claimant's assignment was completed

for some reason and the claimant failed to notify the temporary employment firm of the completion of her employment assignment and seek reassignment. This failure is deemed a voluntary quit unless the claimant was not advised in writing of her duty to notify the temporary employment firm. It appears that the claimant was advised in writing of the notification requirement and the employer has a clear and concise explanation of the notification requirement and the consequences of the failure to notify and the document appears to be separate from any other contract of employment. Accordingly, the administrative law judge concludes that the claimant is deemed to have voluntarily left her employment when she failed to notify the employer herein, a temporary employment firm, of the completion her last work assignment and seek reassignment. Unemployment insurance benefits are denied to the claimant until or unless she requalifies for such benefits.

DECISION:

The representative's decision dated March 1, 2005, reference 04, is affirmed. The claimant, Kathie M. Nelson, is not entitled to receive unemployment insurance benefits until or unless she requalifies for such benefits, because she left employment voluntarily without good cause attributable to the employer, when she failed to notify the employer, a temporary employment firm, of the completion of her last work assignment and seek reassignment as she was instructed to do in a separate written notification.

sc/pjs