

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

GREGORY CHASE
1509 ROYER ST
DES MOINES IA 50316

MANPOWER INC OF DES MOINES
517 – 5TH AVE
DES MOINES IA 50309

Appeal Number: 05A-UI-07048-ET
OC: 04-24-05 R: 02
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, 2nd 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 Leaving
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed from a decision dated June 1, 2005, reference 02, that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 27, 2005. The claimant participated in the hearing. Denny Warrick, Branch Manager, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted into evidence.

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of

record on June 1, 2005. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by June 11, 2005. That date fell on a Saturday so the appeal was due June 13, 2005. The appeal was not filed until July 6, 2005, which is after the date noticed on the disqualification decision. The claimant testified he did not receive the decision until July 6 2005, because he was hospitalized in Broadlawns. Consequently, the administrative law judge concludes his appeal is timely.

The claimant was employed as a full-time help desk worker for Manpower last assigned at Pioneer from September 24, 2004 to November 29, 2004. The assignment ended because the claimant made an inappropriate comment to a customer and the client asked that the claimant be removed from the position. The employer spoke to the claimant and told him that he was eligible for rehire and that he needed to call in and notify the employer of his availability, and called the claimant several times between November 2004 and February 2005 but the employer's records indicate the claimant only contacted the employer December 17, 2004, about a position he saw online but it was also for Pioneer and the claimant could not return there. After trying to reach the claimant several times without receiving any return calls, the employer made the claimant's file inactive.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

Iowa Code section 96.5-1-j provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department, But the individual shall not be disqualified if the department finds that:

j. The individual is a temporary employee of a 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.

For the purposes of this paragraph:

(1) "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.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of the temporary assignment. In this case, the claimant gave the employer no notice of the claimant's availability and, therefore, is considered to have quit the employment. Benefits are denied.

DECISION:

The June 1, 2005, reference 02, decision is affirmed. The claimant's appeal is timely but his separation from Manpower was not attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

je/pjs