

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EDWARD B GEORGE
Claimant

APPEAL NO. 07A-UI-07366-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMBRIDGE TEMPOSITIONS INC
Employer

**OC: 04/22/07 R: 03
Claimant: Respondent (2)**

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The employer, Cambridge Tempositions, filed an appeal from a decision dated July 26, 2007, reference 05. The decision allowed benefits to the claimant, Edward George. After due notice was issued, a hearing was held by telephone conference call on August 15, 2007. The claimant participated on his own behalf. The employer participated by Account Manager Stephanie Matteson. Exhibit One was admitted into the record.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Edward George was employed by Cambridge Tempositions from June 2, 2006 until June 15, 2007. His last assignment was at Heinz, which was ended at the request of the client. The claimant was notified of the end of the assignment by Account Manager Stephanie Matteson by phone.

The claimant was aware of his responsibility to contact the employer within three days of the end of any assignment and request more work. Mr. George asserted he did call and leave voice mail messages for Ms. Matteson on June 13, and 15, 2007, but the employer has no record of having received any messages.

Edward George has received unemployment benefits since filing a claim with an effective date of April 22, 2007.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant has the burden of proof to establish he did not quit, with or without good cause attributable to the employer under Iowa Code chapter 96.6(2). In the present case, the claimant only asserted he called the employer within the three-day time period but did not provide any proof of that to overcome the employer's denial. The administrative law judge does not find the claimant to be any more or less credible than the employer and therefore cannot find he has met his burden of proof. The claimant is disqualified for voluntarily quitting without good cause attributable to the employer.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment

compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of July 26, 2007, reference 05, is reversed. Edward George is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$2,187.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw