

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT G ADAMS
Claimant

APPEAL NO. 11A-UI-13831-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 09/18/11
Claimant: Appellant (2)

Section 96.5-1-j – Quit from Temporary Employment

STATEMENT OF THE CASE:

Robert G. Adams filed a timely appeal from an unemployment insurance decision dated October 13, 2011, reference 02, that disqualified him for benefits. After due notice was issued, a telephone hearing was held November 15, 2011 with Mr. Adams participating. Claims Administrator Sarah Fiedler participated for the employer, Team Staffing Solutions, Inc. Employer Exhibit One was admitted into evidence.

ISSUE:

Was the claimant's separation from employment a disqualifying event?

FINDINGS OF FACT:

Robert G. Adams was employed by Team Staffing Solutions, Inc. from January 20, 2010 until his last assignment ended July 11, 2011. Mr. Adams sought reassignment with Team Staffing Solutions on July 13, 2011. He called Mary Kirchner of the Muscatine office and left a voicemail since she was on the phone when he called. She did not return his call. He has not heard from Team Staffing Solutions since the end of the assignment. Ms. Kirchner coded Mr. Adams as a "dnu" because of the circumstances surrounding his separation from his last assignment. The letters stand for "do not use." The employer denies that it discharged Mr. Adams.

REASONING AND CONCLUSIONS OF LAW:

Since the employer has denied that the separation was a discharge, the administrative law judge need not consider whether Mr. Adams had been guilty of misconduct in his last assignment.

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 greater weight of evidence in this record persuades the administrative law judge that Mr. Adams initiated contact with Ms. Kirschner on July 13, 2011 but that Ms. Kirchner chose not to return Mr. Adams' call. By placing the call Mr. Adams met the requirement of Iowa Code section 96.5-1-g. No disqualification may be imposed.

DECISION:

The unemployment insurance decision dated October 13, 2011, reference 02, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

css/css