

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ABOUDOURABIO AFOODJEBITI**  
Claimant

**APPEAL NO. 09A-UI-00203-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CAMBRIDGE TEMPOSITIONS INC**  
Employer

**OC: 10-16-08 R: 04  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 22, 2008, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on January 21, 2009. The claimant participated in the hearing with Interpreter Manzi Icyalho. Rebecca Brown, Account Manager and Victor Ochoa, Account Manager, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted into evidence.

**ISSUE:**

The issue is whether the claimant's appeal is timely and whether he voluntarily left his employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of 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 December 22, 2008. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by January 2, 2009. The appeal was not filed until January 7, 2009, which is after the date noticed on the disqualification decision, because the claimant did not receive the decision January 4, 2009. Consequently, the administrative law judge must conclude that the claimant's appeal is timely.

The claimant was employed as a full-time third-shift maintenance worker for Cambridge Tempositions last assigned at Quad City Die Cast from February 15, 2008 to March 26, 2008. He was a no-call/no-show March 24, 25 and 26, 2008, and the employer determined he voluntarily quit his job. On March 21, 2008, he met with Account Manager Rebecca Brown and said he did not wish to perform "women's work." Ms. Brown told him that his job was not a "woman's" job and asked him if he liked the job and the claimant indicated he did. He agreed to return to work when they were talking in her office but did not call in or show up to work after that date. The claimant testified that a co-worker had been laughing at him and saying he was doing "woman's work." He also alleged that the same co-worker called him a "chimpanzee" and

said he "lived in the jungle" because he came from Africa. The claimant did not mention that there were any racially charged statements made at his workplace when speaking to Ms. Brown March 21, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code section 96.5-1 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.

871 IAC 24.25(4) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

While the claimant may have been laughed at and teased about his job being a woman's job by one co-worker, he did not tell Ms. Brown that the co-worker also made racial comments as well and it seems he would have brought that up first when expressing his concerns to her rather than telling her he liked his job and would return to his assignment. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer's policy after meeting with Ms. Brown, he is considered to have voluntarily left his employment without good cause attributable to the employer. Therefore, benefits must be denied.

**DECISION:**

The December 22, 2008, reference 02, decision is affirmed. The claimant's appeal is timely and he voluntarily left employment without good cause attributable to the employer. Benefits are

withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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