

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

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Appeal Number: 06A-UI-06378-DWT
OC: 01/22/06 R: 03
Claimant: Appellant (2/R)

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-j- Temporary Employment

STATEMENT OF THE CASE:

Ronald L. Erving (claimant) appealed a representative's June 8, 2006 decision (reference 04) that concluded he was not qualified to receive unemployment insurance benefits, and the account of CFA, Inc. (employer) would be charged for benefits paid to the claimant. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 28, 2006. The claimant participated in the hearing with his attorney, Dan Holub. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's representative/witness could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for nondisqualifying reasons?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant registered to work for the employer in early 2006.

On May 8 or 9, 2006, the employer gave the claimant permission to leave work six hours early for a doctor's appointment. The claimant understood that when an employee leaves work early, the employer does not allow the employee to work the next day. On May 10 or 11, the claimant contacted the employer for work but was told he was not on the schedule. The claimant contacted the employer at least one more time during the week ending May 13. The next week, the claimant accepted a one-day job with another temporary employment firm.

The claimant contacted the employer again in late May. The claimant returned to work for the employer in June.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5-1-j. The facts show the claimant understood he could not return the very next day if he left work early the day before. The second day, the claimant contacted the employer to find out if he could return to work and was told he was not on the schedule. The facts indicate the claimant satisfied the requirements of Iowa Code § 96.5-1-j if this law applies. The facts also reveal the claimant returned to work for the employer in June. Based on the evidence presented during the hearing, the claimant's employment separation on or about May 9 does not disqualify the claimant from receiving benefits as of May 7, 2006.

The employer is not one of the claimant's base period employers. Therefore, during the claimant's current benefit year, the employer's account will not be charged.

Since the claimant testified he returned to work for the employer in June and the claimant filed claims for various weeks in June, the issue of whether the claimant properly reported his wages for these weeks is remanded to the Claims Section to investigate and issue a written decision.

DECISION:

The representative's June 8, 2006 decision (reference 04) is reversed. The claimant did not voluntarily quit his employment. Instead, the employer did not have any work for the claimant for a period of time and the claimant is qualified to receive unemployment insurance benefits as of May 7, 2006, provided he meets all other eligibility requirements. The issue of whether the claimant properly reported wages he earned from the employer in June is remanded to the Claims Section to investigate and issue a written decision. The employer's account will not be charged during the claimant's current benefit year.

dlw/kjw