

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINNIE WEEMS
Claimant

APPEAL NO: 11A-UI-05117-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPHERION STAFFING LLC
Employer

**OC: 01/02/11
Claimant: Appellant (1)**

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

Linnie Weems (claimant) appealed an unemployment insurance decision dated April 6, 2011, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Spherion Staffing (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 13, 2011. The claimant participated in the hearing. The employer participated through Kelly Harris, Branch Manager. Employer's Exhibit One was admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant is disqualified for failure to contact the temporary employment agency within three working days after the completion of his assignment, when and if notified of this requirement at the time of hire.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a temporary forklift driver on July 19, 2010. At the time of hire, the claimant signed two separate documents that advised him he was required to check in for additional work within three business days of the completion of an assignment. One document covers Iowa unemployment law and the other document is the employer's policy which is the same as Iowa law. The claimant admitted he knew he was required to check back in for another assignment.

The claimant was assigned to Genco on July 26, 2010 for a temp-to-hire position. Genco was going to hire him but discontinued his assignment on December 10, 2010 after a background check revealed he had one or more old convictions. Branch Manager Kelly Harris subsequently contacted the claimant and notified him that his assignment was over. There was work available and she informed the claimant of this fact. He did not indicate any interest and there is

no record of the claimant contacting the employer after that date. The employer maintains records on each contact.

The claimant testified that he and Ms. Harris discussed an assignment at Heinz on December 10, 2010 but he said he had to see about a babysitter to see if he could do the split shift. Ms. Harris testified they do not offer split shifts with any of their assignments. The claimant also testified that he contacted the employer multiple times but could not remember the next date he spoke with the employer after December 10, 2010.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code § 96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualification for unemployment insurance benefits after a voluntary separation.

Iowa Code § 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 evidence indicates the claimant knew he was required to contact the employer after the completion of his assignment so the employer knew whether he was available for additional assignments. The claimant did not contact the employer after his assignment ended and did not accept additional work that was offered to him on December 10, 2010. He did not satisfy the requirements of Iowa Code § 96.5-1-j and is disqualified from receiving unemployment insurance benefits as of January 2, 2011.

DECISION:

The unemployment insurance decision dated April 6, 2011, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs