

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID L GERARD**  
Claimant

**APPEAL NO. 08A-UI-04217-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES STAFFING SERVICES**  
Employer

**OC: 03/16/08 R: 03  
Claimant: Appellant (2)**

Section 96.5(1)j – Quit/Temporary

**STATEMENT OF THE CASE:**

The claimant, David Gerard, filed an appeal from a decision dated April 25, 2008, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on May 14, 2008. The claimant participated on his own behalf. The employer, DES Staffing, participated by Human Resources Manager Amy MacGregor and Division Manager Peggy Kacher.

**ISSUE:**

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

**FINDINGS OF FACT:**

David Gerard was employed by DES Staffing beginning September 4, 2007. His last assignment began on November 27, 2007, at University Laundry. On March 20, 2008, Division Manager Peggy Kacher notified the claimant the assignment was over. He asked when he could expect to be recalled there and the employer said it was most likely not going to happen. He then asked if there was any other work available and was told there was not.

**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 maintains he asked Ms. Kacher about a new assignment at the time she told him the old one was over, and the employer maintains he did not. The administrative law judge does not find the employer's testimony to be any more or less credible than the claimant's, but the employer has not successfully rebutted the claimant's assertion he did ask for more work. In any event, the purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of the temporary assignment. In this case, the employer had notice of the claimant's availability because they notified him of the end of the assignment. Benefits are allowed.

**DECISION:**

The representative's decision of April 25, 2008, reference 01, is reversed. David Gerard is qualified for benefits, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css