

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

TOMMY L WEST
1114 21 AVE
ROCK ISLAND IL 61201

LF STAFFING SERVICES INC
LABOR FINDERS
c/o JON-JAY ASSOCIATES INC
PO BOX 182523
COLUMBUS OH 43218-2523

Appeal Number: 06A-UI-01097-S2T
OC: 12/25/05 R: 04
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party request the Appeals Section to reopen the record at the address listed at the top of this decision or 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 – Separation from Temporary Employer

STATEMENT OF THE CASE:

L.F. Staffing Services (employer) appealed a representative's January 23, 2006 decision (reference 02) that concluded Tommy West (claimant) was eligible to receive unemployment insurance benefits based on his separation from work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 15, 2006. The claimant participated personally. The employer participated by Kimberly Rasche, Branch Manager.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant

performed services from August 9, 2002, through December 23, 2005. Every day that he worked he signed a sign-in sheet indicating that he was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. The employer never provided a copy of the document to the claimant.

The claimant was working as a laborer at Iowa Can from April 1, 2003, until December 23, 2005. The employer had always provided the claimant with transportation to the worksite. On or about December 7, 2005, the driver had an accident and the van was totaled. The employer agreed to have the driver drive the claimant to work in the driver's car until December 31, 2005. The corporate office discovered the transportation plan and prohibited the company from having the driver transport the claimant in the driver's personal vehicle. The driver continued to take the claimant to work until December 23, 2005. After December 23, 2005, neither the employer nor the driver provided the claimant transportation.

Iowa Can laid its workers off after December 23, 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant was separated from the employer for any disqualifying reason. As an employee of a temporary service, the employer must advise the claimant of a three day notice requirement and give the claimant a copy of that requirement.

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 employer did not provide the claimant with the proper notice requirements and has, therefore, failed to satisfy the requirements of Iowa Code section 96.5-1-j. Benefits are allowed.

DECISION:

The representative's January 23, 2006 decision (reference 02) is affirmed. The claimant is eligible to receive unemployment insurance benefits.

bas/pjs