

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WAYNE M WELKER
Claimant

APPEAL NO. 09A-UI-19227-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

**Original Claim: 11/22/09
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Wayne Welker, filed an appeal from a decision dated December 17, 2009, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 3, 2010. The claimant participated on his own behalf. The employer, Team Staffing, participated by Claims Administrator Sarah Fiedler.

ISSUE:

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

FINDINGS OF FACT:

Wayne Welker was employed by Team Staffing from June 2, 2009 until July 23, 2009. He had received the employee handbook and the availability statements requiring him to contact the employer for assignments.

He worked at client company HJ Heinz on a long-term, on-call basis. There was no guarantee of any certain number of hours per day or days per week. An account manager at Team Staffing would customarily contact the temporary workers the afternoon before there were any hours scheduled for them. If the account manager did not call, the temporary worker was to contact Team Staffing to inquire about hours for the next day.

The claimant's last day of work was July 15, 2009. He went to Cedar Rapids, Iowa, on July 16, 2009. On July 20, 2009, the account manager, Jen, called Mr. Welker to notify him he was to work the next day starting at 10:00 p.m. and he said he would be there, but he was no-call/no-show. On July 21, 2009, Jen again called and spoke with Mr. Welker to tell him he was to be at work the next day at 10:00 p.m. and he said he would be there, but again he was no-call/no-show. Jen could not reach the claimant directly on July 22, 2009, but left a voice mail message for him to say he was to report to Heinz at 10:00 p.m. the next day.

On July 29, 2009, Heinz contacted the employer and said the claimant had been no-call/no-show on July 21, 22, and 23, 2009. That same day Mr. Welker called and spoke with Jen to say he had gone to Cedar Rapids, Iowa, earlier and he then lost his transportation and his phone and could not come to work. He had not attempted to contact the employer prior to that and he was notified his employment had ended.

REASONING AND CONCLUSIONS OF LAW:

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(1) and (4) provide:

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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

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

The claimant had agreed to work July 21 and 22, 2009, but was no-call/no-show to work. He did not call in response to the voice mail message on July 22, 2009, even though he knew this was required of him. Although work was available to him, he did not contact the employer as required, because he was out of town and had lost his transportation.

Being no-call/no-show to work for three days is considered a voluntary quit by operation of law. Also, loss of transportation and being unable to come to work is a quit without good cause attributable to the employer. Under both of these Administrative Code statutes, the claimant is disqualified.

DECISION:

The representative's decision of December 17, 2009, reference 01, is affirmed. Wayne Welker is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw