

**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**

**ERICA L JOHNSON
2696 OWEN CT APT 8
DUBUQUE IA 52002**

**L A LEASING INC
SEDONA STAFFING
612 VALLEY DR
MOLINE IL 61265**

**Appeal Number: 04A-UI-02908-HT
OC: 02/01/04 R: 04
Claimant: Appellant (1)**

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 – Quit/Temporary

STATEMENT OF THE CASE:

The claimant, Erica Johnson, filed an appeal from a decision dated March 15, 2004, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on April 6, 2004. The claimant participated on her own behalf. The employer, Sedona Staffing (Sedona), participated by Unemployment Benefits Administrator Colleen McGuinty.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Erica Johnson began working for Sedona in September 2003. Her last assignment began on November 7, 2003, at Quebecor. It ended on February 6, 2004, and the claimant did not contact the temporary agency again until February 24, 2004. Sedona requires all temporary employees to contact the office within three days of the end of each assignment. These instructions are in writing and are signed by the employees.

The claimant was using a cell phone in spite of a warning on the notice of the hearing not to do so, due to their unreliability. She was advised by the judge at the beginning of the hearing that if the phone disconnected, it would be her responsibility to contact the Appeals Section to indicate she was able to receive calls again. Contact was lost at approximately 9:12 a.m. and the claimant did not contact the Appeals Section again by the time the record was closed at 9:14 a.m.

The claimant contacted the Appeals Section at 9:21 a.m. but did not state why she waited nearly ten minutes from the time she disconnected until she attempted to call back. The record was not reopened.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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's testimony at the fact-finding interview was differed from the testimony given at the appeal hearing. At the fact-finding she acknowledged she had not called within the three days required but at the hearing she testified she had called in the same day she was notified of the end of the assignment. These conflicting statements impair her credibility to the point that the administrative law judge concludes she altered her later testimony in an attempt to establish she complied with the company rules and Iowa law. However, the initial statement at the fact-finding has more credibility as it was given at a time when she did not know she would be disqualified for failing to call the employer within three days of the end of the assignment. She is disqualified under the provisions of the above Code section.

DECISION:

The representative's decision of March 15, 2004, reference 02, is affirmed. Erica Johnson is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/kjf