

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLES FOSTER
Claimant

APPEAL NO. 08A-UI-03114-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMPS NOW HEARTLAND LLC
Employer

**OC: 09/16/07 R: 04
Claimant: Appellant (3)**

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

STATEMENT OF THE CASE:

Charles Foster (claimant) appealed an unemployment insurance decision dated March 26, 2008, reference 04, which held that his separation from his part-time job with Temps Now Heartland LLC (employer) was disqualifying but he was eligible for unemployment insurance benefits based on other base period employers. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 14, 2008. The claimant participated in the hearing. The employer participated through Krista Kenady, Office Manager and Miriam Aruguete of Personnel Planners, Inc. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant disqualified because he failed to contact the temporary employment agency within three working days after the completion of his assignment when 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 employed as a full-time general laborer from November 5, 2007 through February 22, 2008. He signed a three-day notification policy on January 10, 2008 advising him he needed to contact the employer within three days of the completion of an assignment. The claimant contends he was working a part-time position but the employer assigned him to this client for a 40-hour workweek. The client had a discussion with the claimant on February 15, 2008 regarding the claimant not working. The claimant walked off the job on that date and never returned to his assignment. He did not contact the employer at any time thereafter. The client contacted the employer on February 22, 2008 to ask that the claimant be removed from the assignment due to no-call/no-shows. Continuing work was available had the claimant called in his availability. The claimant testified he was going to get another job but has to complete a college course before he can get it.

The claimant filed a claim for unemployment insurance benefits effective September 16, 2007 but has not received benefits after the separation from employment.

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. See Iowa Code §§ 96.5-1 and 96.5-2-a. Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer.

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 signed the employer's contact notification policy on January 10, 2008 which advised him he was required to contact the employer within three days

of the completion of an assignment. He was given a copy of this policy at the time he signed it. The claimant walked off the job on February 15, 2008 and never returned to the assignment or contacted the employer after that date even though continuing work was available. He was removed from the assignment on February 22, 2008. The claimant admits he did not check back in with the employer for additional work.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated March 26, 2008, reference 04, is modified in favor of the respondent. 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. There is no overpayment as a result of this decision.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css