

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WAYNE MCCALED
Claimant

APPEAL NO. 08A-UI-01727-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOBBS TEMPORARY SERVICES INC
Employer

**OC: 01/06/08 R: 02
Claimant: Respondent (1)**

Section 96.5-1-j – Separation from Temporary Employer

STATEMENT OF THE CASE:

Dobbs Temporary Services (employer) appealed a representative's February 12, 2008 decision (reference 02) that concluded Wayne McCaleb (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 scheduled for March 5, 2008. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Sandy Blomquist, Manager. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 off and on from July 13, 2005, through the present. He signed a document that was part of his contract for hire on July 15, 2005, 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 claimant completed his last assignment on December 21, 2007, but did not seek reassignment from the employer until January 7, 2008

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge finds the claimant was separated from the employer for no disqualifying reason. As an employee of a temporary service, the claimant was required to give proper notice to the claimant of his obligations to seek reassignment.

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.

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. The notice cannot be part of the contract for hire. 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 February 12, 2008 decision (reference 02) is affirmed. The employer did not satisfy the requirements of the Iowa Code. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css