

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**FANNIE DAVIS**  
Claimant

**APPEAL NO. 09A-UI-08923-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**  
Employer

**Original Claim: 04-12-09  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge/Misconduct  
Section 96.5(1)j – Voluntary Leaving (Temporary Employment)

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 11, 2009, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 8, 2009. The claimant participated in the hearing with witness/ex-sister-in-law Eula Davis. The employer provided a phone number where their witness could be called, but she was at lunch at the time of the hearing and did not call during the hearing to participate in the hearing or request a postponement of the hearing as required by the hearing notice.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct and whether the claimant sought reassignment from the employer.

**FINDINGS OF FACT:**

The claimant was employed as a full-time packager for Team Staffing Solutions last assigned at Brochner's Chocolates from October 9, 2008 to January 14, 2009. The employer called the claimant and left a message notifying her that her assignment was over due to a lack of work. The claimant called the employer after hours January 14, 2009, to tell them she would call back the next day. On January 15, 2009, the claimant called the employer to let them know of the end of her assignment and to ask if they had any other work for her. After that, she went into the office to see if they had any further assignments for her approximately every other day. On January 22, 2009, she called the employer and stated that if they did not have any work for her by January 26, 2009, she would be accepting a position working at Pearson. The employer did not have work for her, so she went to work for Pearson from January 29, 2009 to June 19, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

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 has not established misconduct on the part of the claimant as defined by Iowa law, as the claimant's last assignment ended due to a lack of work. The remaining issue is whether the claimant sought reassignment from the employer. In this case, the employer not only notified her that her assignment was over but the claimant called the employer the evening it left a message telling her the assignment was over, called the following day, and then went into the office approximately every other day to see if it had work for her. Consequently, the administrative law judge concludes the claimant was discharged from her employment and did seek reassignment from the employer. Therefore, benefits are allowed.

**DECISION:**

The June 11, 2009, reference 02, decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw