

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSHUA T FREE**

Claimant

**APPEAL NO. 11A-UI-06662-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MASTERSON PERSONNEL INC**

Employer

**OC: 04/25/10**

**Claimant: Appellant (2-R)**

Section 96.5(1)(j) – Separation From Temporary Employment

**STATEMENT OF THE CASE:**

Joshua Free filed a timely appeal from the May 9, 2011, reference 02, decision that denied benefits in connection with an April 1, 2011 separation. After due notice was issued, a hearing was held on June 14, 2011. Mr. Free participated. Jim Robertson, unemployment insurance operations manager, represented the employer.

**ISSUE:**

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. Joshua Free performed work for the employer in one full-time, temporary work assignment at Primera Foods in Britt, Iowa. Mr. Free started the assignment in September 2010 and last performed work in the assignment on Wednesday, March 23, 2011. At that point, Masterson on-site representative Maureen Keen told Mr. Free that he would be temporarily laid off for the balance of that week but to call back that Friday to check on further work. On March 25, Mr. Free contacted Ms. Keen, who told him there would be no work for the coming weekend or for the next week. On Friday, April 1, Ms. Keen telephoned Mr. Free and told him there would be no more work available for him at Primera Foods. Mr. Free asked whether Masterson Personnel had any other work for him. Ms. Keen told Mr. Free that there was no work for him at present, but that she would contact Mr. Free in the event more work became available.

Mr. Free established a claim for benefits that was effective April 3, 2011. At that time, Mr. Free told Workforce Development that he had last performed work in the assignment on March 23, 2011.

## REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits

that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The weight of the evidence fails to establish that the employer had an end-of-assignment policy that complied with the requirements of Iowa Code section 96.5(1)(j) or that Mr. Free received a copy of such a policy. Accordingly, the employer cannot claim the benefit of the statute. In any event, the evidence indicates that Mr. Free immediately requested work in a new assignment upon being notified by Ms. Keen on April 1, 2011, that the assignment at Primera Foods was done. The employer had no work for Mr. Free at that time. Mr. Free's completion of the assignment fulfilled the contract of hire and Mr. Free was under no further obligation to seek further assignments through the employer.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Free's April 1, 2011 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Mr. Free is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Free.

The employer's testimony raised the issue of whether Mr. Free refused a suitable offer of employment on April 7, 2011. This matter will be remanded to the Claims Division for adjudication of that issue.

**DECISION:**

The Agency representative's May 9, 2011, reference 02, decision is reversed. The claimant's April 1, 2011 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

This matter is remanded to the Claims Division for adjudication of the issue of whether the claimant refused a suitable offer of employment on April 7, 2011 without good cause.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw